California Journal

THE MONTHLY REPORT OF STATE GOVERNMENT AND POLITICS

Is Chavez union on brink of defeat?

Proposal for end to farm labor war

SPECIAL SECTION

Reagan Tax Initiative

September 1973

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letter from the editor...

Dear Journal Readers:

My former colleagues in the capital press corps have repeatedly asked me the same question during the past couple of months: "What changes are you going to make in the *Journal*?" They have all received the same reply and I want to pass it on to you: "We want to make the *Journal* more readable without losing its depth of coverage."

The cornerstone of the *Journal* has been its solid research and its down-the-middle approach to partisan political issues. But, from my former vantage point as a Capitol reporter, I viewed almost every issue of the *Journal* as it hit my desk as rather laborious reading. If *Consumer Reports* can make a five-page article on hi-fi components interesting and if *Forbes* can make the complex world of corporate finance fascinating, why can't we write about California government and politics in a lively manner?

* * *

How are we going to make the *Journal* more readable? Wags have suggested that we introduce a centerfold of the month, a la Playboy and Playgirl, featuring California public officials and alternating between a male and a female each month. That's a bit more lively than anything we have in mind, however.

Incidentally, the *Journal* could stand an occasional touch of comedy relief. We'd love to find a contributor or two who could analyze a serious subject with a light or satirical touch.

One Capitol correspondent claims he has never been able to finish a major *Journal* article because he always seems to get bogged down trying to plod through masses of historical data. We hope to avoid this problem by extracting statistical material and other copy from the main article and placing it in separate boxes. In this way, the data will be there for easy reference but will not halt the flow of the article.

In the three and a half years of the *Journal's* existence, its pages have never been graced with a photograph. The omission was intentional under a theory that photos are not worthy of a rather scholarly magazine. But what's wrong with using a photograph when it best illustrates the message we are trying to convey?

* * *

You may have noticed some of the changes that have already been instituted. The August front page marked a drastic departure from our previous covers. This resulted from a meeting with our artist, Don Hair. He was told that the *Journal's* cover no longer had to look the same every issue (a cartoon and a half dozen headlines) and that we simply wanted the art to illustrate what was inside the magazine.

Our contributors are being given substantially the same charge: Tell the story in whatever way will best get the message across to the reader. This means that emphasis will be placed on what is happening now — or what might soon happen — in state government and politics. History and organizational material will be provided, of course, but not as an end in itself. Background will be used primarily to illustrate how the present situation developed.

Another revision has been the use of this page. Prior to last month, it was a problem page filled with rather short items of no great consequence. Hereafter, it will be the location of a column roughly comparable to the one I used to write for the Sunday *Oakland Tribune*. Occasionally, it will be used for communications with our subscribers or for columns by other *Journal* editors.

* * *

The *Journal* has become more flexible. In the past, for example, the magazine maintained a hard line against the printing of letters to the editor (with the exception of the recent solicitation of responses to an article on Chicano politics) even if they were interesting. The day may come when we will print letters that are concise and that deal with subjects within the scope of the *Journal*. We cannot expect the letters to be limited to a paragraph or two, but we will reserve the right to edit those that exceed reasonable length.

Despite all I have said, there will be no drastic changes. The magazine was soundly conceived by the five gallant men who left the safety of the legislative staff four years ago to enter the risky field of communications. The regular departments will be retained, although there may be some alteration in the method of presentation. One of the reasons the *Journal* exists, perhaps the main reason, is to provide information as a matter of record for reference purposes. Our aim is to present this material in as attractive and readable a manner as possible.

From month to month, the reader may notice little change in the *Journal*. We hope that is the case, because we envision an evolutionary process rather than abrupt change. The *Journal* covers both government and politics, if anyone can figure out precisely where one ends and the other starts. We expect to devote more space to the political process, but again this change will not be so rapid or so great as to warp the shape of the magazine.

We encourage subscribers to offer suggestions for articles or anything else that might improve the magazine and make it a better vehicle for research and education in California government. Every letter will get my personal attention and will be answered promptly.

ED SALZMAN

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California Journal

Volume IV, Number 9
September 1973

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California Journal is published by the California Center for Research and Education in Government, a nonprofit, tax-exempt corporation. Publication is assisted by grants from the Ford Foundation, the Michael J. Connell Foundation, the Apple Hill Foundation, and the Norton Simon Foundation.

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Did Reagan really win tax rebate battle?

On the surface, it appears that Governor Ronald Reagan won the battle over disposition of the state's big surplus by cutting sales and income taxes by $710 during the current fiscal year. The plan adopted by the Legislature August 16th was virtually identical to the proposal rejected out of hand at the end of June by Assembly Speaker Bob Moretti. The Reagan-Moretti impasse led to the imposition of an additional one percent to the sales tax July 1st even though the state treasury was already overflowing with money.

Impact on tax initiative

But did Reagan really win? Was the real issue how the funds would be returned, specifically how much of the surplus would go to those income taxpayers at the top rungs of the wealth ladder? The answer to both these questions is a definite no. Moretti and his colleagues gave the Governor exactly what he requested because they had another motive in mind — a detrimental effect on Reagan's tax limitation initiative headed for voter decision November 6th (see special section).

Moretti made it clear that he will do everything in his power to defeat Proposition 1. Because the initiative contains a 20 percent rebate on the income tax for this calendar year, it became imperative to the Speaker that the bill contain an income tax repayment of at least that amount. Because of public outrage at the one percent sales tax levied on July 1st, it also was taken for granted that the basic sales tax would be returned to five percent. That cutback, it so happens, would also have a marked effect on the initiative because this year's revenue total will become the basis for computation of next year's expenditure limit under Proposition 1.

This means that by cutting an estimated $330 million from this year's state income, the Legislature may have paved the way for a reduction in next year's budget of that amount. Assemblyman William T. Bagley, a leading Republican spokesman on tax matters, said the tax bill could establish a ceiling that would be $500 million lower than will be needed next year. "Even Ronald Reagan couldn't cut $500 million from the budget," he warned. "This could have catastrophic results."

Bagley, joined by Republican Senator Robert J. Lagomarsino, came up with a novel proposal designed to give the public a one-cent sales tax reduction without touching the state's revenue base for purposes of the proposition. They suggested that the one cent of the sales tax that goes to local government be eliminated for six months, with the state giving cities and counties the equivalent amount from the surplus. Bagley said he even figured out a way to get around the problem of charter cities refusing to cooperate. The state would simply stop collecting the sales tax for them, and it would cost them more to collect it themselves than they would receive in revenues.

Bagley pleaded with Moretti to accept this approach, and at one point apparently had the Speaker convinced that his plan was the only responsible way to solve the problem. At showdown time, however, Moretti decided to take the action that would give him the best chance of defeating the initiative.

Moretti feels that opponents to Proposition 1 can now convince the voters that they should defeat the initiative because passage may well mean cutbacks in vital state programs or shift of burden to local property taxpayers. Democratic Senator Albert Rodda of Sacramento looked at the situation from the other side of the coin. He abstained from voting on the measure because he fears that the initiative may pass and then the Legislature will be stuck with the consequences of its refusal to accept the Bagley alternative.

SB 90 of 1973

Paradoxically, the measure used as a vehicle for the tax cut was numbered SB 90 and was authored by Senator Ralph Dills. Almost one year ago, a bill with the identical number and author imposed the additional cent in sales tax and caused most of the state's current fiscal controversy.

Here are the main provisions of this year's SB 90, which was approved by a 31-to-0 vote in the Senate and 74-to-3 in the Assembly:

- On October 1st, the sales tax for most of the state will drop for six months from six to five percent. (In San Francisco, Alameda and Contra Costa counties, it will drop from 6½ to 5½ percent.)
- Effective this year, single persons with incomes up to $4,000 and married couples and heads of household with incomes up to $8,000 will be exempt from state income taxation.
- One-year credits on adjusted gross income would be given on this year's income taxes due April 15, 1974, according to the following schedule: Married couples — up to $15,000, 35 percent rebate; $15,000-$20,000, 30 percent; $20,000-$25,000, 25 percent; $25,000 or more, 20 percent. Single persons — up to $7,500, 35 percent; $7,500 to $10,000, 30 percent; $10,000-$12,500, 25 perecent; 12,500 or more, 20 percent.

Taxation specialists have come up with these estimates of the amount an average family of four would save in income taxes under the new law: $7,000 income, $7; $10,000, $22; $15,000, $60; $20,000, $102; $25,000, $137; $50,000, $583; and $100,000, $1,508. In the June battle, Moretti and his Democratic supporters in the Assembly had insisted that a $200 limit be placed on the amount of rebate. But he abandoned that position in his no-holds-barred determination to defeat the initiative.

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DESPITE DEATH AND DISCORD

Prospects dim for farm labor legislation

California's complex farm-labor battle again has reached a critical stage. Cesar Chavez and his United Farm Workers Union have their backs against the wall, pinned there by a joint effort of the Teamsters Union and growers. George Meany, president of the AFL-CIO, is trying to rescue the Chavez forces by engaging in negotiating sessions with Teamster chief Frank Fitzsimmons. Meanwhile, farm-belt legislators are trying to bring peace to the agricultural labor front by calling for the enactment of a bill that will put agricultural workers under a system similar to the National Labor Relations Act for industrial workers. With the Chavez movement virtually at a live-or-die stage, there are significant developments in four cities:

In Fresno, almost 4,000 striking farm workers and their supporters have been jailed and subsequently released for defying court orders limiting the number of pickets around each farm and restricting efforts by Chavez to communicate with laborers in the field. Two UFWU pickets were killed, and Chavez started fasting to dramatize the plight of his organization. UFWU, which once had 182 contracts covering 42,000 lettuce, grape and soft fruit workers, is now down to 12 contracts covering 6,500 workers, primarily in the wine grape industry. The growers have signed Teamster contracts to replace old Chavez contracts.

Salinas miscalculation?

In Washington, Meany and Fitzsimmons were meeting in an effort to reconcile the dispute over which union should represent the field labor force. In 1967, there apparently was an arrangement that Chavez's AFL-CIO union would have a clear shot at organizing the field workers, and the Teamsters would represent processing, warehousing and transportation workers within the agricultural industry. That division broke down in 1970 when Chavez, flushed with victory in the Coachella Valley and Delano area, moved into the Salinas lettuce fields which had previously been Teamster territory. Had Chavez moved north into the San Joaquin and Sacramento valleys to organize tomato and peach workers, for example, he would probably have avoided a direct conflict with the Teamsters. The Meany-Fitzsimmons meetings had the effect of cooling off the competition between the two unions, despite a furor over the Teamsters signing contracts with 25 table grape growers in the Delano area during the truce period. To placate Chavez, the Teamsters renounced the contracts and closed their Delano office.

In San Francisco, representatives of the two unions conducted peace talks in an effort to iron out details of an agreement. Einar Mohn, head of the Western Conference of Teamsters, and Chavez, headed the delegations. There were reports that the Teamsters were willing to abandon the field workers to the UFWU, but it was not clear what the Teamsters would get in return. Is the prospective quid pro quo an AFL-CIO hands-off policy on all food processing workers, including those workers now covered by contracts with the AFL-CIO meat cutters union? Or can Meany offer Fitzsimmons something far removed from the farm labor situation, perhaps even in another part of the country?

In the fourth city, Sacramento, there were revitalized efforts to enact farm-labor legislation to solve the problem. Lawmakers recognized that it is hopeless to expect action from Congress. Senator George Zenovich of Fresno, feeling constituent heat from all sides on the issue, obtained a second chance to enact a bill that would put farm labor under a NRLA-type act. The provisions are generally those long sought by grower interests, with a significant sweetener for labor, unemployment insurance coverage for farm workers. (The bill originally was killed by a 4-3 vote of the Senate Industrial Relations Committee with the key negative vote being cast by Senator H. L. Richardson, a management-oriented lawmaker who wanted the bill to include a right-to-work provision). Other legislators were also carrying farm labor bills, but the outlook for all of them was dim.

There were strong indications that Chavez was weakening his previously firm position against any farm labor legislation, a position that has never been solidly backed by the AFL-CIO hierarchy. Chances are virtually nil for the passage of any bill until an equilibrium develops that leads all three major forces — Chevez, the Teamsters and the growers — to believe that they can win representation elections that must necessarily follow the enactment of any NLRA-type bill. (This presumes a miscalculation of at least one of the contenders.) Until that time, none of the three parties will be willing to compromise. But if that time should come, a compromise proposal such as the one in the accompanying article might prove feasible.

Heretofore, most discussions about a farm labor law have hinged on the banning of secondary boycotts, such as those employed by Chavez against the table

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grape and lettuce growers, and the management insistance that strikes be prohibited during harvest season. But academic experts say there is no way Chavez and his followers can be halted from conducting "informational" campaigns against growers and that most farmers will manage to harvest their crops unless Chavez is able to pull off an unlikely crop-wide strike. The real issue, the experts claim, is how the representation elections will be conducted once a law is passed. Who can vote? Will it be limited, as growers would prefer, to the 100,000 permanent employees? And if not, how will the seasonal force of between 180,000 and 250,00 be enfranchised?

Meany apparently would like to see a law enacted, partially to halt the drain of funds from the AFL-CIO treasury to Chavez. The current fight against the Teamsters has cost an estimated $1.6 million. The competition between the two labor forces has been bitter and often violent this year in the Coachella and Central Valleys. The UFWU said that Teamster "guards" were "goons" who had attacked Chavez's pickets. The UFWU has sent roving bands of pickets in car caravans through Fresno, Tulare, Kings, and Kern counties to search for workers harvesting fruit. Courts have issued orders to prevent the UFWU from using bullhorns to communicate with workers in the fields. Chavez fought the court orders with disobedience that flooded the Fresno County jail. "We are not going to let the sheriff and the judges break our union," he said.

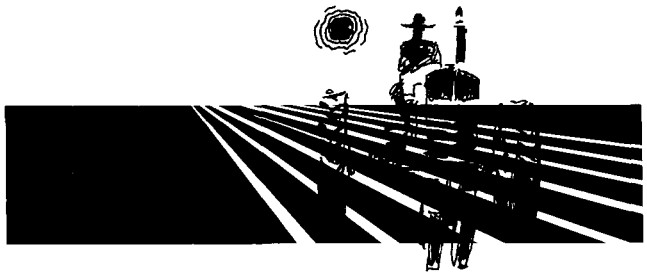
Grower viewpoint

In fact, his union had already been brought close to the breaking point by the Teamster-grower pacts. With the actual workers playing virtually no role at all and with economic issues relegated to a minor position, the farmers had no difficulty casting Chavez out and signing with the Teamsters. The farmers contend that the workers prefer the huge transportation and warehousing union. At the Gallo Winery in Fresno County, officials announced that the workers had voted 158 to 1 in favor of the Teamsters. The growers were delighted to make the switch because they never have viewed the UFWU as a legitimate labor union, but rather as a quasi-religious organization with Cesar Chavez as the high priest.

The UFWU did a poor job administering the contracts it signed in 1970 when Chavez made a major breakthrough in the grape industry, according to growers. Chavez had rejected the traditional labor contractor system in favor of union hiring halls, and then farmers complained that he did not always supply the workers. Growers also charged that Chavez was guilty of "grandstanding" on the pesticide issue, which is a serious matter to farmers. The Teamsters, on the other hand, are not a revolutionary bunch. They deal with the practicalities of a situation and do not impose any particular ideology. In short, the growers found Teamster leaders more their kind of people.

Appeal to liberals

Chavez, as he has done successfully in the past, has tried to arouse sympathy among the nation's liberals for his cause. He brought Daniel Ellsberg and singer Joan Baez to Fresno. Baez provoked a unique confrontation when she led pickets in "We Shall Overcome." Across the street, farmers and their families started singing "America the Beautiful." It was songs at 60 paces. These tactics, however, are not having the same



impact they did a few years ago. The liberals have other causes, including Watergate, and Chavez seems to have worn out some of his welcome.

If Chavez manages to take the offensive again, there will be virtually no chance of a legislative solution to the problem. All three contending forces — the growers, the Teamsters and Chavez — have enough support in the Legislature to prevent passage of a bill they don't like. Chavez thus far hasn't liked anything, the growers have refused to concede anything, and the Teamsters appear perfectly happy without any bill.

Teamster threat

But what will happen if Chavez is defeated and the Teamsters take control of the farm field workers? Will the Teamsters move rapidly to organize the rest of California agriculture, including citrus, tomato and peach workers? In the past, growers under attack have not received much support from those who had no labor problems and saw legislation as just an invitation to trouble. With the Teamsters in full control of virtually every aspect of the industry — field workers, processing employees, warehousemen, and truckers — won't growers need legal protection more than ever?

If that point ever comes, it will be a battle royale between the growers and the Teamsters in the halls of the Legislature. It is here that the years of effective work by Teamster lobbyists will tell the story, and growers probably will not get to first base with a bill unless they work out a compromise with the Teamsters. Over the years, the Teamsters have become the only organized labor advocacy organization to build strong support from both Democrats and Republicans. (By comparison, virtually all grower backers are Republicans, while Chavez has almost exclusively Democratic friends.) It is difficult to envision both sides getting together with an agreement on the crucial issues on how elections are to be held, which workers will be included in a bargaining unit, and how unfair labor practice problems will be handled.

As though the situation were not already complex enough, the future of California farm labor relations will be made even more difficult by the current national inflation in the price of agricultural products. Farmers claim they have been in a state of economic depression for about 20 years, and the recent rapid rise in prices is finally bringing them into the era of prosperity with the rest of the country. Whether Chavez survives or not, the farm workers eventually will start demanding a big piece of the action from rising prices. And California may be faced with again another round of brutal conflict between growers and whichever unions seek to represent the field workers.

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Professor proposes system of mediation and arbitration to end California's farm union representation conflict

By VARDEN FULLER

Until four years ago, labor supporters felt that the exclusions of farm workers from the National Labor Relations Act in 1935 was unjust and that the law should be amended to cover them. Dominant farmer thought was that because agriculture is so unlike any other industry, no labor relations legislation was needed or appropriate. A switch in partisan polarities occurred in 1969 and its common denominator was the California grape boycott. Farmers now wanted protection against boycotts. But they wanted broader restraints than were offered by the NLRA as well as less of its protection to unionization.

These concepts were embodied in the U.S. Senate bill authored by George Murphy in 1970, the Cory-Wood-LaCoste California Assembly bill of 1971 and California initiative Proposition 22 in the 1972 general election, all unsuccessful. From 1969 onward, the United Farm Workers Union (without formal concurrence of the parent AFL-CIO) has opposed labor relations legislation of any sort (except for the original unamended NLRA). Without coverage, the UFWU is free of the constraints against boycotts embodied in NLRA by its 1947 Taft-Hartley amendments.

Conflict and chaos

Without legislation, California's farm labor relations in 1973 have been those of conflict, chaos and bloodshed. Interunion conflict has meshed into labor-management conflict. Nevertheless, legislative interest in the subject this year has not been intense, either in Washington or Sacramento. However, there are signs of revived interest in the state Capitol.

Washington's performance on farm labor relations legislation raises doubts that effective action at the federal level either to extend NLRA coverage or devise a separate arrangement is likely. The inability to act at the federal level seems to be attributable to indifference that arises because farm labor relations are viewed as a provincial issue. Only a few states have the pattern of farming likely to evoke interest or concern — and California tops that small list.

But even Sacramento's history on farm labor relations legislation fails to inspire confidence. Nevertheless, if there is to be an enactment that is fair, in the public interest, and manageable, Sacramento is where it will happen. The reasons are these:

- The subject is a live one in California.
- Organized farmers and organized labor have attained a near-balance of power, which will probably preclude a one-sided law.
- Action here is less vulnerable to hang up on the right-to-work issue, since that matter is apparently resolved here.
- California legislators may be more free of ideological preconceptions that stand as barriers to inquiry and action.
- If enactment does occur in California, the prospects of sufficient funding for effective administration should be better because a national bureaucracy will not have to be maintained for a few states.

Unique industry

If California were to take the initiative, the enactment should be based on standards that have evolved since 1935 and the advent of NLRA. This experience incorporates the prevailing sanctions for intervention into labor-management relationships. As has been long and heatedly argued, farming as an enterprise and the employment patterns of farm work are different from other industries. Spokesmen of organized farmers have time and again asserted their industry is "unique". By this, they mean their work is seasonal and their product is perishable; hence they are uniquely vulnerable to strikes. And there are also aspects of uniqueness from the viewpoint of employees. While other industries are seasonal and some have perishable products, the casual relationships among workers and between employer and worker that are characteristic in agriculture are seldom found elsewhere.

If there is to be intervention into farm labor relations, the foremost shared interest on all sides is that the administrative agency have the capacity for prompt action. Certification of representation after the season is over or a finding on an unfair labor practice charge after the produce has rotted is indeed a case where "justice delayed is justice denied." The matter of timeliness raises doubts about the capability with respect to possible farm labor coverage of the National Labor Relations Board which is responsible for administering the NLRA. Its caseload continues to mount, and its average time for processing representation petitions and unfair labor practice charges exceeds the limits that are needed in agriculture. The main assurance of prompt action are twofold: the agency must be funded sufficiently to have the staff available to get the work done; its procedures should be kept as simple as possible. The chances for both of these are better at the state than at the national level.

In proposing adaptations of national labor relations standards for agriculture, the dual considerations of timely action and the particular characteristics of the industry must be paramount. These considerations underlie the proposals that follow:

The process would start with the filing of a petition

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for representation. Having filed the petition with the agency, the union would be free to picket the work site unless and until the employer had agreed that he would not oppose a determination of representation by the administrative agency and he would permit a limited and appropriate number of pre-determination meetings of his employees to be held on the farm property, at which all parties of interest could express their points of view, free of any form of coercion. In the absence of such an agreement, the union would be free to picket until the date of the representation determination; in the presence of such an agreement, picketing would be an unfair labor practice against which the agency would be required to seek legal restraint. If, upon an initial investigation of the union's petition, the agency were to discover an insufficient showing of employee interest, it would immediately issue a "no union" determination which would be valid for the following twelve months, during which no new representation petition would be permitted.

Barricade eliminated

This arrangement would give immunity from picketing by a union that was not prepared to face an election (or other form of determination) within a reasonable period of preparation, provided that the employer was not hostile to the principle of representation. For the union, it would overcome the major barricade to communication with prospective members, namely the anti-trespass law that bars entry of organizers onto a farm property, into farmer-owned labor camps, and into on-farm housing. Such a meeting arrangement is intended to substitute for whatever persuasion (or intimidation) the union is able to manifest at the picket line and the employer may attain with unilateral access to his employees while on the farm property. This proposed approach emphasizes communication as an alternative to duress. It should relieve much of the chaos and strife now found in methods used by the union to persuade workers and to coerce recognition from the employer.

Given the highly seasonal character of most work in fruits and vegetables and the short-term and casual employment relationships associated with it, determining representation while giving all affected employees the chance to participate is a task not readily discharged. Consequently, even if a union were able to obtain certification, it may not succeed in obtaining a contract within the same season. Therefore, it would be fair and reasonable for a certification to extend through a second year. This would allow the certification itself to stand as a bar, in lieu of a contract, against the filing of a rival petition for certification or a petition for decertification for two years.

The foregoing combination of provisions regarding representation should serve the first tenet of national labor relations policy, namely, the right of workers for democratic majority self-determination of whether to unionize or not. These provisions relate to collusion as well as to duress, both of which can infringe upon that right. Concurrently, the farmer's most cherished objective — protection against harvest-time strikes — is met in part because he is offered the opportunity to avoid representational and organizational strikes.

The first contract

Now comes the next step, the first collective bargaining contract. The parties will face the pressure of time and perhaps inexperience on one or both sides. The situation, if not actually explosive, could well be less than the best for a calm first experience. It seems reasonable, therefore, that a public service somewhat beyond the usual forms of conciliation and mediation might be available — at least for the first agreement. A proposal along this line was made by George Shultz, then Secretary of Labor, to the Senate Subcommittee on Migratory Labor in 1969. His version and others fashioned upon it were tied to a required notification of intent to strike, boycott, or lockout. The following proposal attempts to place the procedure in a more affirmative context, to limit its use to legitimate needs, and to try to have it serve as the basis for the beginning of a peaceful relationship:

- When representation has been certified, either party would be eligible to submit a request to the labor relations agency for approval of a 40-day mediation-arbitration period. The petitioner would be required to review briefly the efforts that had been made to achieve agreement and to declare his belief that no agreement was in prospect. Copies would simultaneously be served upon the opposite party.
- The respondent party would have five days in which to submit a countering argument that agreement was in prospect and if such were received, the agency at its discretion might postpone the 40-day period for another five days.
- In the absence of a countering argument, the agency would investigate the circumstances immediately, and in the lack of agreement between the parties, would initiate the 40-day period within ten days following the receipt of the petition, providing the petition was found to be in order. A mediator would simultaneously be assigned by the agency.
- If no agreement was reached within a succeeding 15-day period of mediation, a 20-day arbitration period would automatically ensue. Arbitration would be by a three-member panel, whose chairman would be appointed by the agency and with one member appointed by each party. To facilitate matters, and unless both parties object, the mediator would normally be appointed by the agency to continue as arbitration chairman.
- The petitioning party would be bound from the beginning to accept the arbitration decision providing that the respondent party did so within five days of its announcement.
- The arbitration decision would be retroactive to the first day of mediation.
- To strike, picket, or lock out within an approved 40-day period would be an unfair labor practice against which the agency would be required to seek court restraint.
- If the 40-day mediation-arbitration period failed to yield a contract, and if one was not subsequently agreed upon between the parties, either of them could petition for a second mediation-arbitration period after twelve months.

After the contract

If the proposed mediation-arbitration arrangement is legitimate as a potential intervention into the first negotiation, why should it not be available subsequently? Even though it has been proposed, mandatory arbitration does not now have sanction in the American system of collective bargaining. The above proposal is not mandatory because the initiator elects whether or not

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to invoke it and the respondent elects whether or not to accept the final outcome. Secondly, there is particular justification for this modified approach in the farm situation and with respect to the first contract. To meet the principle of maximum participation of those having an interest, the determination of representation has to be made at the height of the season. This leaves little time for the first negotiation. Typically, when the representation rights of a union have been established, the members expect results. Consequently, pressures would begin to build with the first day of certification. In contrast, subsequent extension and modifications of contracts could be conducted in advance of the season. As prevailing conditions come to be established and the parties gain experience, their capacities for self-determimination can be expected to increase. They can use mediation and arbitration to the extent mutually agreed upon.

The National Labor Relations Act provides some protections against boycotts but no guarantee against strikes to attain continued recognition or to enforce demands for extension or modification of contracts. Farmers' ideas of protection against strikes at critical times have centered around restraining orders and injunctions. Proposition 22, for example, had a provision that could be described as a "farmer's do-it-yourself injunctive relief package," the effectiveness of which was to be guaranteed for 60 days. But injunctions have not had a prominent or broadly sanctioned role in collective bargaining since the Norris-La Guardia Act of 1932. And since the strike, under legitimate circumstances, is an accepted tactic in labor-management relations, there is no justification for withholding it from farm workers. To permit farm workers to strike only when no work is being done makes no sense whatever. Moreover, for a state to undertake an act of repression based upon arbitrary classification might raise a constitutional question.

Farm workers are an integral part of the American labor force. Farming is an integral part of the American private enterprise system. If an accommodative approach in public policy can be made on the two most exceptional and critical aspects of farm labor relations, the remainder, including such admittedly difficult issues as composition of bargaining units, may be resolved under established NLRA standards.

Two attorneys raise questions about Fuller plan

The following comments on Professor Fuller's proposal were solicited by the Journal. *They were written by Assemblyman Howard L. Berman, vice-chairman of the Assembly labor relations committee and an attorney specializing in labor-management law, and by Donald A. Weinland, an attorney and assistant director of the State Department of Food and Agriculture.*

Berman: I'm not convinced that state legislation is preferable to extending the NLRA to cover agriculture. It is important to remember that agriculture was specificaly excluded from the 1935 act simply because pro-labor forces could not muster the votes of farm state congressmen to pay the bill — not because a compelling case had been made for the unique nature of the grower-farm worker relationship.

With its regional offices and large staff spread throughout the country, the NLRB could readily apply its expertise to agriculture. The collective bargaining process is a remarkably flexible one and the board has developed many useful precedents to cover the widely varied industries it regulates.

The right of agricultural laborers to organize and bargain collectively applies with equal force anywhere in the country and should receive federal protection. However, if this is not politically feasible, California should proceed forthwith to enact a state law.

The article argues for a one-year bar to any representation petition where the agency has found a union's representation claim not supported by a sufficient showing of employee interest. This would play directly into the hands of growers who resist organization by permitting a "labor organization" not seriously undertaking organizational efforts to blanket agricultural employees with "phony" representation petitions, thereby deterring serious attempts at unionization for a year. An "election bar" should operate only if a union's representation petition results in an election at which the employee's reject any union.

There is merit to prohibiting the utilization of the secondary boycott or organizational picketing during the period when the union is seeking to win the support of a majority of the grower's employees. Such restrictions must be conditioned on the inclusion of provisions guaranteeing union organizers ample access to the employees and tough enforceable protections against employer intimidation, coercion and promises of reward for rejecting unionization.

However, when the question of representation has been settled and the parties are required to bargain, it is manifestly unfair to deprive the union of economic tools at its disposal, while the grower is free to import strikebreakers. As the Chavez forces point out, the American labor movement enjoyed 12 years without restraint on secondary boycotts prior to Taft-Hartley impositions on that tactic.

The generally excellent article is silent on a very vexatious problem: Which employees should be permitted to vote? Proposition 22 sought to preclude seasonal employees from ever outvoting permanent ones irrespective of the ratio of seasonal to year-round workers. This is hard to justify, since collective bargaining offers its greatest hope to the casual worker. It has been suggested that a system of weighted voting, with all workers eligible might provide an acceptable solution.

Weinland: The basic concepts in this proposal are good. Dr. Fuller's statement proposes farm labor legislation based on NLRA standards. This is helpful with regard to procedure and interpretations and would be similar to many of the provisions of the Cory-Wood-LaCoste bill of 1971, Proposition 22, 1972 and SB 493 of the 1973 Legislative Session.

On the determination of representation, the proposal does not appear to cover the situation where the union or employee group does not desire to petition for representation but prefers to picket, boycott, etc. until a contract is negotiated.

The concept of non-mandatory arbitration following unsuccessful mediation is worthy of serious consideration.

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Will 'Cap the Knife' become Cap the candidate?

Under a tradition attributed to Earl Warren, California gubernatorial candidates are supposed to throw their hats in the ring by the time the first snow falls in the Sierra. (The United States weather service reports that's usually about October 1st.) But the contenders in the 1974 race, at least on the Republican side, may not be known until Sierra snow is piled high toward the sky. The reason is an apparent determination by the members of Governor Ronald Reagan's so-called kitchen cabinet to bring a strong candidate into the race.

This situation makes Caspar W. Weinberger, 56-year-old Secretary of Health, Education and Welfare in the Nixon administration, the pivotal figure in the race with nine months to go until the June primary. Reagan's financial backers have indicated that they will not support Lieutenant Governor Ed Reinecke, who has stated publicly that he has been under pressure to withdraw from the contest to make room for Weinberger. The Lieutenant Governor now views himself as an independent candidate without connection to Reagan or his financial angels.

Weinberger has been playing a coy game. He has been visiting the state regularly as though he were entertaining a statewide race. He has made himself available to reporters and has stated for the record that he is spending all his efforts on his present job but might respond to a draft.

The kitchen cabinet, it has been reported, held two meetings in Los Angeles and decided that Reinecke could not win because of staff embarrassments and a minor role in the ITT affair. Looking at alternative choices, the Governor's backers for a variety of reasons did not find any of the obvious alternatives acceptable — Attorney General Evelle Younger, Controller Houston I. Flournoy and former presidential counselor Robert H. Finch. Weinberger emerged as the group's choice after industrialist David Packard rebuffed all overtures.

'Man of great capacity'

Reagan was asked this question at a press conference: "Do you think Caspar Weinberger would make a good successor to yourself?" Replied the Governor: "Restating my position of neutrality, ... I don't think anyone in the world can deny the capabilities of Cap Weinberger for any job that I've seen him assigned. He not only was great when he was here in our own state administration but in Washington . . . I think his performance has been brilliant. This is a man of great capacity."

The key question is whether Weinberger has absolutely no intention of running and is "making himself interesting," or is waiting for pledges of financial support and a relatively clear field. It would be ironic for Weinberger to carry the conservative banner against a Finch or a Flournoy because not too many years ago he was the arch enemy of the rightist elements within the Republican party.

He built a reputation as a progressive legislator during three terms in the Assembly (1953-1958) and later came back under conservative attack during a term as Republican state chairman. His political career took a turn to the right when Reagan called upon him to replace the unsuccessful Gordon Paul Smith as state Director of Finance. Weinberger set to work with vengeance to carry out Reagan's orders to "cut and squeeze and trim" the state budget. Nixon admired Weinberger's work and called him to Washington in a similar role, and the Californian won the nickname "Cap the Knife" for his prowess as a penny pincher.

Democratic appeal

The theory behind a Weinberger candidacy is that he can appeal to all elements of the Republican party and can attract enough Democratic votes to win. Congressman William Ketchum of Paso Robles takes issue with that theory, claiming that Weinberger has limited charisma and would not make a good television personality. Ketchum is trying to convince Republican leaders that Flournoy has the necessary TV charm and would win in a landslide if he could get through a GOP primary. The Governor's financial backers have over the years been generally cold to Flournoy, who has not always gone along with Reagan's policies.

Here is the latest list of potential candidates:

Democrats

Governor. Mayor Joseph Alioto of San Francisco, Secretary of State Edmund G. (Jerry) Brown Jr., Senate President pro Tempore James R. Mills, Assembly Speaker Bob Moretti, Senator George Moscone of San Francisco, University of California Regent William Matson Roth, Representative Jerome R. Waldie.

United States Senator. Incumbent Alan Cranston, Howard L. Gifford of Patterson.

Lieutenant Governor. Roger Boas, former San Francisco supervisor; State Senator Mervyn Dymally; John Merlo, Chico attorney; Terry Goggin, administrative assistant to Representative George E. Brown Jr.; Bernice Slater, Sacramento broadcaster.

Controller. Assemblyman Charles Warren of Los Angeles, Supervisor Robert Mendelsohn of San Francisco.

Attorney General. Secretary of State Brown, Warren, and Assemblyman Walter Karabian of Los Angeles.

Treasurer. Milton Gordon, former state real estate commissioner and unsuccessful Democratic nominee in 1970.

Secretary of State. Incumbent Brown; William Durley, Sacramento county clerk; Assemblywoman March K. Fong of Oakland, Senator Alan Short of Stockton.

Republicans

Governor. Incumbent Ronald Reagan, Controller Houston I. Flournoy, Lieutenant Governor Ed Reinecke, Attorney General Evelle Younger, former presidential counselor Robert H. Finch; David Packard, former Undersecretary of Defense; Caspar W. Weinberger, Secretary of Health, Education and Welfare.

United States Senator. Finch, Flournoy, Mayor Pete Wilson of San Diego, state Senator H. L. (Bill) Richardson of Arcadia; Dr. Earl Brian, state Secretary of Health and Welfare.

Lieutenant Governor. Joe Blatchford, former Peace Corps Director; John Veneman, former undersecretary of health, education and welfare; James Flournoy, unsuccessful 1970 candidate for secretary of state; H. D. Timm Williams, former state Indian affairs adviser; Senator John L. Harmer of Glendale, Assemblyman Floyd Wakefield of Downey.

Controller. Assemblyman William Bagley of San Rafael.

Attorney General. Younger and Harmer.

Treasurer. Incumbent Ivy Baker Priest.

Secretary of State. Mike Montgomery, San Marino attorney; John G. Schmitz, 1972 American Independent Party candidate for President; Brian Van Camp, state corporations commissioner; Assemblyman Paul Priolo of Los Angeles.

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JAIL FOR SECOND OFFENDERS

Courts try to close drunk-driving loophole

BY DENNIS CAMPBELL

In the four years since Miles Bennett Mitchell avoided the penal consequences of his prior drunk driving record, more than 32,000 similarly accused motorists have followed his example, retaining their status as first offenders and gaining more lenient sentences by convincing California's courts that their previous convictions were constitutionally invalid.

The stakes were high for Mitchell and those who followed him. A first-offense conviction for drunk driving can bring a $250 to $500 fine or a 30-day to six-month jail sentence. Judges also may recommend suspension of a first offender's driving license, but few do. However, a second conviction within a seven-year period carries a $250 to $1,000 fine, a mandatory jail term of at least five days, and an automatic year's suspension of driving privileges. The stakes are even higher, argues California Highway Patrol Commissioner Walter Pudinski, for a motoring public forced to share the highways with deadly drinking drivers.

Penalties too severe?

The source of Pudinski's disenchantment is not difficult to trace. During 1971, 7,332 drunk driving convictions were invalidated, most of them on the contention that the defendant was not sufficiently informed of his rights when he pleaded guilty. Another 11,237 prior convictions were overturned last year. By early summer of this year, the invalidation rate was running at up to 1,500 a month. In each case, the court's action meant that a driver whose license might otherwise have been suspended was allowed to return to the highways. "We say that is wrong. These are repeaters," Pudinski complains. There are several reasons for the ease with which increasing numbers of repeat offenders are moving through the courts. Some courts, for example, find California's drunk driving penalties too severe. According to Robert Cozens, director of the Department of Motor Vehicles, "Judges have told me they find that the mandated penalties in some instances are too harsh and the only way they can get around it is to find the prior conviction invalid." Cozens adds that many courts are reluctant to suspend a driver's license because the action could prevent a breadwinner from getting to and from his work. But, although Pudinski has branded the courts as a "weak link" in the CHP's crackdown on drunk drivers, the problem is not necessarily rooted in judicial leniency.

The volume of drunk driving cases confronting the courts is a "fact of life" that court critics must consider, suggests Los Angeles Municipal Court Judge Vincent Erickson. In the Los Angeles metropolitan division, he adds, an average of 100 drunk drivers are arraigned each day. "As a practical thing, many of the courts will accept pleas of reckless driving in a simple case where the blood alcohol level is under .15 percent. It's a pragmatic thing. If we didn't do that, we probably would be loaded with trials and lose most of them. It's a problem of proof," Judge Erickson says.

San Bernardino County Municipal Court Judge Roy Chapman offers the situation in his county as typical of the kind of problem confronting the judiciary in dealing with drunk drivers. "Reports from the San Bernardino office of the California Highway Patrol," he points out, "indicate that in 1972 the drunk driving arrests by officers working out of that office were 52 percent higher than for the preceding year and more than double than for 1970. The only increase in judicial personnel during that period of time was the addition of a part-time commissioner in September of 1971."

Defendant's word

Nor is volume the final aspect of the judiciary's quandry. As Judge Erickson explains, California's lower courts are "dealing with procedural devices that the appellate courts have set forth, and each judge sees them slightly differently." Judge Erickson concedes that judges often rely on what a defendant tells them about the respect paid to his constitutional rights if he had a prior drunk driving conviction in a different jurisdiction.

There is no debate over the right of a defendant to challenge the validity of his prior conviction. Each conviction must have met the constitutional requirements of due process if it is to retain its vitality, and the right to challenge that vitality has been defined, redefined, and expanded in numerous California Supreme Court decisions dating back to 1963. The confusion and the controversy arises over the manner in which the judiciary is to provide that right to defendants. The problem is procedural, and it begins with the case of Miles Bennett Mitchell.

Mitchell was arrested for drunk driving on July 29, 1966 and was convicted of misdemeanor drunk driving by the Palo Alto-Mountain View Municipal Court. There were two prior drunk driving convictions on his record, the first in Sacramento in 1955 and the second in Florida in 1960. Mitchell contended that he did not receive his full measure of constitutional rights in the prior convictions, and the court agreed. The prior convictions were invalidated, Mitchell was treated as a first offender, and the court ordered the Department of

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Motor Vehicles not to suspend his license.

DMV loses battle

The DMV, however, ignored the order and did suspend Mitchell's license. That conflict was carried to the First District Court of Appeal which ruled in 1969 that the DMV was bound by the lower court's refusal to suspend Mitchell's license. As a result, since early 1969 the DMV has been unable to take independent action against repeat offenders who have convinced the courts that they should be treated as first offenders. Mitchell's case is not the only one dealing with the relative power of the courts and the DMV vis-à-vis drunk drivers. But the statistical link between the Mitchell ruling and the trend toward invalidating increasing numbers of prior convictions is dramatic.

In April 1969, only 20 prior drunk driving convictions were invalidated under the Mitchell criteria in California. By the fall of that year, the rate had reached more than 200 a month. In 1970, courts were invalidating prior convictions at the rate of 400 and 500 a month. The invalidations were approaching 700 a month in 1971 when the California Judicial Council and the state Legislature responded with a statute which established new procedures for determining the validity of prior drunk driving convictions. That statute requires that the defendant attack his prior conviction in writing with notice served to the prosecuting attorney at least two days before a hearing. The intent of the law was to give prosecutors time to gather sufficient information from the court involved in the first conviction to support its validity. According to the Judicial Council, however, many prosecutors have failed to take advantage of the statute, and many convictions have been overturned merely because there has been little effort to support them.

Improved defense tactics

Thus, the increasing rate of invalidation continued. The Mitchell ruling and the laxity of some prosecutors are not alone responsible for the increase, the Judicial Council declares. Drunk driving arrests have increased significantly statewide since Pudinski made the drinking driver a primary target of the CHP's law enforcement efforts. And defense attorneys have become more adept at raising constitutional challenges to prior convictions. These last two ingredients in the mix, however, are of little consolation to Pudinski.

"Too often, I have witnessed a failure to take advantage of the legal weapons which have been placed at the court's disposal, weapons which can make drunk driving a very unpopular activity," Pudinski says. "I can arrest all the drunks in the West, but if they are not going to be prosecuted and told their acts are socially unacceptable, I'm still going to have the problem," he adds.

New guidelines

That kind of criticism and the rising statistics have brought responses from the Judicial Council and the state Legislature: — The council has issued new court guidelines designed to make it more difficult for second-offense drunk drivers to escape with light sentences. The regulations went into effect in July. The council is also undertaking a six-month survey of procedures used in drunk driving cases by municipal and justice courts. The study, federally funded through the state Office of Traffic Safety, could result in legislative proposals next year. Under the guidelines, the courts in effect are assuming responsibility for obtaining a complete record of a challenged prior conviction. When the courts do invalidate a prior conviction, they now must state the reasons for doing so.

The state Senate has passed and sent to the Assembly a bill (SB 1268) which its author, Senator George Deukmejian of Los Angeles, says will put more drunk drivers in jail. The bill would allow a judge to waive a prior conviction only in specified circumstances. Here, a discretionary waiver by a judge must be distinguished from an invalidation of a prior conviction, since the legislation will not affect a defendant's right to attack a conviction on constitutional grounds. The bill also responds to the judiciary's concern about the harshness of present penalties by reducing the mandatory jail term from five days to 48 hours. Deukmejian's theory is that more judges will be willing to sentence a defendant to jail if it can be for a period less likely to jeopardize the person's employment. The bill also would permit reduction of the first offense fine from $250 to $150 if the driver agrees to attend driver improvement classes.

Pudinski claims that a reluctance to impose harsh penalties has been a prime motive for what he considers a much wider application of the Mitchell decision than was intended by the appellate court. Whether the Judicial Council's regulations will have a significant impact on the rate of prior-conviction invalidations will be measured in the remaining months of 1973. Whether Deukmejian's proposal is a logical next step will not be known until those statistics have been tabulated.

It was said . . .

If I am out of step with the rest of the world, I intend to remain that way. I am unable to believe that the people I represent relate justice to personal advantage.

. . . by Assemblyman Leroy F. Greene of Sacramento in a newsletter criticizing Standard Oil of California for urging support for Arab nations in the Middle East conflict.

We ought to stop making campaign managers into attorney generals. The old system, you know, of making them postmaster generals was maybe a little better. All they can do is lick stamps and things like that.

. . . by Mayor Joseph Alioto of San Francisco, discussing Watergate on "Meet the Press."

I am certain that neither myself nor my family would be comfortable residing over an Indian burial ground which has special significance to a segment of California's citizenry.

. . . by Assembly Speaker Bob Moretti in supporting a downtown Sacramento site for a proposed Governor's mansion rather than a suburban location identified as an Indian burial ground.

My interest in this is purely academic.

. . . by Attorney General Evelle J. Younger, acknowledging that his staff initiated legislation to raise the salaries of state constitutional officers by 20 percent. He said his last pay hike meant a $17 drop in take-home pay.

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IS COMMISSION OBSOLETE

The decline (and fall?) of the highway empire

BY ED SALZMAN

Supervisor Fred Cooper of Alameda County was pleading with the State Highway Commission a few months ago to stop shortchanging his county and approve appropriations for major projects within the county during the next fiscal year. After Cooper had completed his pitch, Commissioner Vernon J. Cristina of San Jose looked out at the audience and addressed some remarks to former Commissioner Abe Kofman of Alameda.

"You know, Abe," Cristina said, "when I joined this commission (in 1967) this job used to be a lot of fun. But now it is nothing but frustration. We just don't have money to begin to do all the things that need to be done."

Raw statistics back Cristina's contention. The once-powerful commission has lost much of its discretionary power. Most of its work consists of rubber stamping staff recommendations and listening to complaints from officials like Cooper, who was speaking as chairman of the Alameda County Highway Advisory Committee. The highway program is on the decline, and the Legislature is gradually taking back the power it gave the commission over crucial freeway route decisions. All this raises some obvious questions:

Abolish the commission?

Should the highway commission be abolished after 61 years of existence in its present form? Should its power be returned to the Legislature or be handed to the bureaucrats who run the state Department of Transportation? And how about the commission's kid sister, the California Toll Bridge Authority? Why should it remain in business when it has virtually nothing of importance to consider?

The highway commission has been sent into a period of apparently permanent decline by a series of factors:

- Insistence of the Legislature to have the last word on controversial routing decisions. Bills are now being introduced that would even force the commission to spend money on specific projects.
- Decisions in Washington that have reduced availability of federal highway trust funds to the state and that will make federal gasoline tax proceeds available for construction of mass transit facilities.
- Reduction of overall funds available for highway construction to a 1952 level.

As a result of these factors, Cristina and his colleagues have been unable to begin to meet what they consider the prime freeway needs of the state. Invariably, they approve funds for projects as recommended by Highway Engineer Robert J. Datel.

Despite all this, James A. Moe, head of the new department of transportation, is opposed to abolition of the commission. Although he will not say so in as many words, Moe would prefer to have a panel of seven public citizens take the heat for all highway decisions rather than the civil servants employed by the state. He says it would be a mistake to abolish the commission because politics must be kept out of highway decisions. But he concedes that the Legislature, which delegated authority over the freeway system to the commission "little by little is undelegating it."

Nor is Moe eager to have his department handed all the responsibility for freeway decisions. "That much power should not be centered in one group," he said. "The commission helps maintain a balance." With funds shorter than ever, he claims, the decisions where to put the money are even tougher than in the good old days when the highway construction program was in high gear.

Federal cutbacks

So far as Moe in concerned, the outlook for the next few years is even worse. The Legislature again appears ready to place on the ballot a measure eliminating the line tax funds for mass transit. Even some traditional members of the "highway lobby" are supporting the proposal, authored by Senate President pro Tempore James R. Mills, this time around. The construction industry is divided, with some contractors apparently seeing train roadbeds rather than freeways in their future. The federal government has set a precedent by authorizing the expenditure of $20 million in gas tax funds for rapid transit, at the option of the local communities.

The Nixon Administration has been holding back return of highway trust fund proceeds to the state as a brake on inflation Moe said the congressional picture "looks dismal" from his standpoint, with a projected drop in interstate freeway funds from $4 billion to $2.6 billion a year.

Construction slowdown

Then there are the economic factors. The amount of money available for highway construction has actually dropped in the past five years from about $530 million to $450 million. And inflation probably would bring the $450 million down to $350 million in terms of 1968 dollars. Highway officials also maintain that the construction dollars now does not go nearly so far because expensive environmental elements — such as sound barriers — must be included in the design of every freeway.

How much money should be available for highway

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construction is a matter of controversy. Reports by the state Division of Highways show that there are billions of dollars worth of high-priority projects that must be put off for many years for lack of funds. Assemblyman John T. Knox of Richmond came to the Legislature in 1960 with the intent of getting rapid action on an eastern freeway approach to the Richmond-San Rafael bridge across San Francisco Bay. He was told the so-called Hoffman freeway would have to wait about 10 years. He inquired about the approach road again this year and was told it was still probably 10 years away. Knox then introduced a bill calling for the prompt construction of the freeway using surplus tolls from various bridges. At the insistence of the Assembly Transportation Committee he amended the bill to require that the highway commission appropriate the funds for the project out of current income. That measure is still pending and may undergo several more changes during the legislative process.

Prized appointments

One reason why the highway commission may never be abolished is that the seven jobs are prized gubernatorial appointments. In addition to Cristina, the present members are Winston E. Fuller of San Marino, Robert E. Herdman of Solvang, Moon Lim Lee of Weaverville, Joseph F. Sinnott of San Diego, William E. Leonard of San Bernardino, and Kenneth E. Vetter of Bakersfield. These appointments have been valued so highly because of the independence of the commission and because of the raw power once wielded by the panel in establishing the transportation corridors of California. Much of its power could be restored if the Mills proposal to unfreeze the highway fund for rapid transit resulted in the commission apportioning mass transit funds to competing communities. This is not likely, however, because the Legislature will probably retain that power to itself or establish firm formulas for the distribution of funds.

While there may be a case for continued existence of the weakened highway commission, even Moe himself has investigated the possibility of abolishing the Toll Bridge Authority. The main job of the authority, established in 1929 to build a series of spans across San Francisco Bay and later the Vincent Thomas Bridge in Los Angeles and the Coronado Bridge in San Diego, in recent years has been to make adjustments in bridge tolls.

Division demoted

In the recent reorganization of the transportation department, the division of Bay toll crossings — formerly in charge of designing and constructing new bridges — was demoted to nothing more than a toll collecting agency. The authority meets only four times a year and has been tackling a single major issue — what to do with the bus terminal in San Francisco — for more than a year. It also instituted a special low-fare lane on the San Francisco-Oakland Bay bridge for car pools in the morning commuter hours. Both of these projects could have been handled on a staff basis.

The composition of the commission makes it easy for the Governor to dictate its decisions. (Until 1968, the Governor actually served as chairman and its meetings were little more than a charade.) The chairman is Frank Walton, secretary of business and transportation, and another member is Verne Orr, director of finance. There are also three public members — James Schmidt of San Diego, Floyd L. Sparks of Hayward and Roy E. Demmon of Atherton — but all three rarely attend the same meeting. Moe, who serves as executive officer to the authority, says there is no doubt that the Reagan Administration controls the board.

The voters of the Bay Area last year probably eliminated any need for the authority when they rejected the proposed new bridge across San Francisco Bay generally known as the southern crossing. The state intends to replace the Dumbarton Bridge at the southern end of San Francisco Bay, but there is no work left for the authority on this project.

The authority still has the power to raise or lower fares on all toll bridges (except the Golden Gate, which is operated by a special district). But under the Reagan Administration the policy has been to pare tolls to the lowest feasible level, and the authority has merely gone along with recommendations from the Administration. The toll structure has nearly hit bottom, and it is doubtful that there are any major policy decisions left in this regard for some years.

Terminal decision

Authority members have been fiddling around with the problem of the San Francisco transit terminal for more than a year. The building, located on Mission Street in the high-rent district of San Francisco, has been used for many years by commuter buses from across the Bay in Alameda and Contra Costa Counties.

The initiation of Bay Area Rapid Transit service across the Bay — whenever that happens — will take a great deal of traffic out of the bus terminal. The authority has been exploring, with the aid of consultants, the feasibility of building a new transportation center on the site topped by a skyscraper office building. The decisions on this project will probably be made by Walton, Moe and Orr whether or not the authority is still in existence when the day of decision arrives.

Games People Play

Recently a new game began to gain popularity in Washington D.C., and it had nothing to do with Watergate. The name of the game is "Stennis, Anyone?" It was reportedly invented by a group of lobbyists celebrating, over many beers, passage of a bill in which they had a major interest. One of those present recalled a mythical piece of legislation called the Long-Spong-Fong Hong Kong Ping Pong Bill, and this set off a flight of imagination that somewhere along the way was given the name of Mississippi Senator John Stennis. The object of the game is to think of a piece of legislation using the last names of present members of Congress, but if the title has to be explained, it's out.

Here are some bills the originators came up with: The Pepper-Rooney Pizza Standards Bill, the Devine-Wright Presidential Succession Bill, the Tunney-Fish Salmonella Control Bill, and the Young-Studds Paternity Bill.

The game might also be played with the names of California legislators, as Michèle St. Clair, formerly of our staff, demonstrates: The Stiern-Powers Crime Control Act, The Brown-Bagley School Lunch Bill, the Greene-Powers Martian Exploration Resolution, the Behr-Wood Termite Control Act, the Greene-Robbins Food Inspection Act, the Short-Way Donner Party Memorial Resolution, the Johnson-Johnson Medical Supplies Pricing Bill. Stennis, anyone?

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SPECIAL SECTION

The Reagan Tax Initiative

Is it necessary to halt spiraling state spending?

Or will it put California government in a straightjacket?

California voters will go to the polls November 6th in one of the most unusual elections in the state's history. Never before has a governor called a special election for the public to decide the fate of an initiative proposition sponsored by the governor himself and rejected by the Legislature.

Governor Ronald Reagan in March announced his tax limitation proposal (see details on page 8 of this special section) and told the Legislature that he would employ the initiative if lawmakers refused to put it on the ballot. The proposed constitutional amendment was introduced as SCA 12 by Senator Robert J. Lagomarsino and killed June 13th by the Senate Revenue and Taxation Committee. Secretary of State Edmund G. Brown Jr. subsequently announced that the Governor had amassed the necessary 520,000 signatures to put the issue to a vote, and Reagan called the special election for November 6th. There have been estimates running from $3 million to $25 million as to the total cost of the election.

The key element in Proposition 1 is a Reagan proposal that state spending be geared to the total personal income of Californians, and that it be reduced gradually from the present 8.3 percent of income to 7 percent. These key questions are raised by the plan:

- Should the strict formulas in the initiative be locked into the state constitution, where they can be changed only by another vote of the people?
- Should the portion of personal income devoted to state government, including grants to local government, be reduced?
- Do we have too much government? Are taxes too high? Is government spending money unwisely? If the answers to these questions is yes, then is the Reagan proposal the right way to bring about changes?

The importance of the initiative cannot be overemphasized. It will effect the economic interests of every Californian and involves basic questions of political philosophy. Reagan claims the initiative is needed because Californians face a tax future that will leave them "defenseless, at the mercy of a vast special-interest oriented government bureaucracy they unwittingly helped to create." He estimates it will save Californians $118 billion in the next 15 years. A. Alan Post, the Legislature's fiscal analyst, contends that the measure would make it almost inevitable that reductions in state expenditures will be shifted to local government and that state services will be cut back substantially within five years.

In this special section, you will find arguments for and against the initiative by Reagan and Post, short comments by other proponents and opponents of the plan, and a summary of the contents of the complex constitutional amendment.

Additional copies of this special section are available at the following rates: Single copies, 50¢; 2-10, 30¢ each; 11-50, 20¢ each; 51 or more, 15¢ each. Payment must accompany order. *Address order to California Journal Special Section, 1617 10th St., Sacramento, California 95814. Please add sales tax to all orders.*

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SPONSOR REAGAN ARGUES

Blank-check state spending must be halted

The following argument in favor of Proposition 1 was prepared especially for the California Journal *by Governor Ronald Reagan:*

Six years ago, when our administration arrived in Sacramento, we found our state government teetering on the brink of fiscal disaster. The state was spending a million dollars a day more than it was taking in. The number of state employees was increasing at the rate of 5,000 a year. California was beset by a whole host of problems, including not only the severe financial crisis but also pollution, campus unrest, crime, and a worsening welfare mess.

We rejected the conventional political wisdom which declares that the only solution to a government problem is to throw more money at it and never mind the taxpayer. Instead, we adopted the now-famous policy of cut, squeeze and trim — economizing on everything except blue pencils. We got state government back on a sound fiscal footing and halted the boom in state jobs dead in its tracks. It fact, there are virtually no more full-time state employees today than when I took office.

One of our major breakthroughs was cleaning up the welfare mess — ridding the system of fraud and abuse and making sure hard-earned tax dollars went to those truly in need. The politicians, the big spenders and the bureaucrats resisted us every step of the way. They cried long and loud that our welfare reforms would simply shift the costs to local government — and local taxpayers. Well, they've turned out to be 100 percent wrong. In 1972, the first full year after our welfare reforms were implemented, tax rates went down in 42 of California's 58 counties. The state's welfare rolls have been reduced dramatically. In fact, California's welfare and Medi-Cal savings now exceed $1 billion.

Same wrong claims

But, being proved wrong didn't seem to faze these false prophets. They made the same untrue claim last year about SB 90, the property tax relief-school aid measure. Again they've been proved totally wrong. School district after school district up and down the state has announced lower tax rates. So have many local governments.

Now, these same individuals are again making the same tired claim about Proposition 1. They say the initiative would merely shift part of the state tax burden onto local government. Either they have not read the measure or they are guilty of deliberately spreading outright untruths.

Proposition 1 plainly specifies that the state *must* pay for any new or expanded programs it mandates on local government or school districts. The initiative also contains realistic restraints against reductions by the state of existing levels of aid to local government and schools. The proposition declares that local taxes must be cut dollar for dollar if the state assumes a cost from local government or local schools. These safeguards — and the limitations on spending by local government and school districts contained in SB 90 — will be written into the state Constitution by Proposition 1.

Permanent reductions

But the patently false charge that Proposition 1 would just shift the tax burden is only a side issue. The heart of this proposal is to limit and gradually reduce — on a permanent basis — the share of the people's earnings which the state can take in taxes in the years ahead.

Here is the philosophy behind the Tax Reduction and Limitation Initiative and the reasons why government spending must be brought under control:

Until 1930, total government spending in the United States averaged about 15 percent of the people's total personal income. The tax burden has continued to climb ever since with no sign of slowing down. By 1950, government was spending about 32 percent of the people's income and, this year, it will spend around 44 perecnt. The fact is, our tax burden has grown steadily through good times and bad for more than 40 years. Somehow, the law of gravity does not seem to work with government spending.

Last year I appointed a task force to see if we could devise some way to reduce the tax load on the people and still assure ample revenues to finance necessary and ongoing expenses of government — providing revenue to cover new programs as well as the impact of inflation and population growth.

No meat-ax approach

That task force, which included some of the finest tax experts and economists in America, did not — as some would have you believe — simply suggest cutting large chunks from government spending without regard for maintaining essential services. Its members recognized that government plays an important role in our way of life and that taxes are necessary to pay for it. But they also recognized something some people are still unwilling to concede — that the total cost of government has grown to an intolerable level and that it will continue to get worse unless government spending is brought under control. If the same rate of growth we have experienced for more than four decades continues, in 15 short years at least 54 percent — and perhaps as much as two-thirds — of the people's income will be siphoned off by government.

No nation in history has long survived a tax burden that reached even one-third of its citizens' earnings. Indeed, history shows that the first signs of disintegration begin when the total tax burden hits 25 perecnt.

Simple principle

The tax limitation formula devised by the task force and incorporated in Proposition 1 seems intricate, but its principle of operation is simplicity itself. State spending, which now amounts to about 8.75 percent of

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California's total personal income, will be reduced one-tenth of 1 percent per year for 15 years — and will be frozen at that lower level. Over a 15-year period, this would amount to a reduction in state taxes of nearly 20 percent. When you calculate that percentage in dollars and compound the savings over that period, it adds up to a total tax savings for the people of California of $118 billion.

Some critics say Proposition 1 would put government in a strait-jacket. Well, what's wrong with that? What is wrong with forcing government to start living within its income just as any family must do? But the "strait-jacket" charge really is not true.

Flexibility assured

This is a reasonable plan. It assures flexibility for government to grow to meet the needs of an expanding population and to take care of the inflation factor. But, without constraints, state government's income will have grown to a whopping $47 billion in 15 years — five times larger than it is today. And, as we all know, what money government takes in, government will want to spend. I don't believe Californians want a budget that size in 15 years. I don't think they can afford it, nor should they be expected to pay for it.

If California voters approve Proposition 1, state revenues still will be able to double to more than $18 billion in 10 years and triple to more than $27 billion in 15 years. If that is a strait-jacket, it certainly is a loose fit.

We already have a constitutional provision which requires that the state budget must be balanced. But, the problem is that too often it is balanced by increasing taxes. Proposition 1 will solve this problem by requiring that the total amount of state taxes decrease gradually over a 15-year period and then remain at that lower fixed percentage of total personal income from that time on.

Emergency provision

At the same time there are numerous safeguards to enable the Legislature to meet temporary state emergencies. But the people will have the final say on whether the limit should ever be changed on a permanent basis.

Within the overall ceiling on expenditures, the Legislature and the Governor will retain complete control over the level of any given tax and the total mix of state taxes. None of their prerogatives would be lost — except the authority to spend more of the people's money than the people themselves decide they can afford. The only other constraint Proposition 1 would place on the Legislature is to require a two-thirds vote of both houses to raise any tax within the limitation.

Proposition 1 makes provisions for dealing with emergencies by providing an ongoing emergency fund. Of course, the tax ceiling could be raised or even eliminated by a vote of the people, if they so desired.

A one-time rebate of up to 20 percent on 1973 state income taxes was written into the initiative to help return to those who had paid it the existing state surplus. As I had urged for many months, the Legislature finally acted to return the surplus by means of a sales tax reduction and the income tax rebate. The fact that the one-time income tax rebate is still in the initiative will have no bearing on any of the other provisions of the constitutional amendment. It simply means that the rebate will already have been assured.

But Proposition 1 will still require an ongoing 7½ percent cut in the state income tax starting next year. In addition, the state income tax could be lowered another 25 percent in five years and 60 percent in 10 years, under Proposition 1. Or the state sales tax could be cut by one-third. Any combination of tax reductions would be possible.

This program would, once and for all, put an end to government's blank check drawn on the people's earnings. The reason the big spenders are so opposed to Proposition 1 is because they want the blank-check policy to continue so that they can fill in the amount to suit themselves. This is what we have had up to now and it's why the average family spends more to pay for government than it does for food, clothing and shelter combined.

Last year, we adopted a major program of homeowner tax relief. It was a bipartisan effort in the truest sense. Leaders of both parties agreed that the cost of owning one's own home had reached an intolerable level and simply had to be scaled back. So, after years of trying, we were able to achieve property tax relief. But that was merely a shift from one unfair tax to a broader based tax.

Eighty percent of the jobs in this country are in the private sector. It is from the private sector — from business, industry, and the working men and women of our country — that government gets its operating funds. If taxation becomes too heavy a drag on the private sector, we do not have a healthy economy and, if we do not have that, we will not have a healthy balance in the state's accounts and will not be able to properly fund essential programs. The plain truth is that it is time — indeed past time — to slow down the rate of government's total spending so that the real income of the people can increase.

'Elitist nonsense'

Critics of Proposition 1 say the people cannot be trusted to set reasonable tax rates for themselves. That is elitist nonsense. Under our constitution, government derives its power from the people alone. And, people pay the taxes to pay government's bills. For this reason, the people can and should be able to decide how much they can afford to pay for government. Government should then establish proper priorities to fit within that amount. It is hardly a radical idea — it is exactly what every family must do with its budget to keep from going bankrupt.

Keeping government spending within bounds is no new concern. More than 2,000 years ago, the Roman Senator Cicero wrote: . . . ". . . When a government becomes powerful, it is destructive, extravagant and violent; it is a usurer which takes bread from innocent mouths and deprives honorable men of their substance, for votes with which to perpetuate itself." What worries me is that Cicero could have said the same thing about this country today.

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OPPONENT POST CONTENDS

Measure shifts burden to local taxpayers

The following argument against the Reagan tax limitation initiative is a condensed version of a paper presented by A. Alan Post, legislative analyst, during a symposium on the proposition at UCLA.

The questions to keep in mind as you consider the merits and long-range effects of the Governor's proposal are:

- What expenditures and taxes will be subject to the declining limit and what impact will these reductions have on the spending and taxes of other levels of government? Will there really be savings and where will they probably take place?
- Who, under this constitutional amendment, will have effective control over the level of expenditures? Will it be the Legislature, or the Governor, or special taxpayer interests, or the federal government, or the people voting at the ballot box?
- Is it true that our state expenditures take so much out of the citizens' pockets, and is a drastic constitutional amendment of this kind justified?

Less cash from Washington

There are two fundamental elements in the Governor's proposal. One is a reduction in income taxes, an ongoing 7.5 percent credit effective first in 1974. There is an aspect of the income tax reductions which has been more or less ignored by everyone. It is related to the impact of income tax reductions on federal revenue sharing. When a state decreases its income tax collections, the result is to decrease the amount of revenue sharing funds the state receives. Other states get the funds a given state loses.

The second element of the Governor's initiative is a limit on state expenditures expressed in terms of a percent of personal income which declines each year by 1/10 of one percent until it reaches 7 percent. Seven percent, eight percent, five percent — there is no magic number. We must understand what the effect will be on the finances of local government and its base of property tax support or, alternatively, the increases which may occur in other local taxes.

It should be emphasized that this is not just a control plan. It is an expenditure reduction plan. No one knows how many years it will take before the declining percentage formula reaches 7 percent, when the Legislature, by a two-thirds vote, will be able to stop further reductions. The proponents have said that it will be 15 years before the formula reaches 7 percent. Our analysis shows that the 7 percent will be reached in 11 years and possibly will be reached earlier than that.

Governor holds pursestrings

The state is not necessarily locked into this expenditure limit. It may, under certain situations, exceed the limit. It may do so for tax refunds. It may do so if the Governor, and only the Governor, declares an emergency. The Legislature would be stripped of the ultimate power of the pursestrings. It could not call an emergency without the Governor's approval. It could not override the Governor's decision if his decision is against spending money in excess of the expenditure limitation. The real control over state expenditures would be held by the Chief Executive.

Another way in which the limit can be changed is if the state cuts back on certain subventions to local governments. The limit drops in proportion to the cuts. This is obviously intended to avoid a shift of costs from the state to local government. Unfortunately, the proposition is poorly drafted to accomplish this end. Some of the major property tax relief programs, such as the senior citizens' property tax assistance and the renters' credits in the personal income tax, fall outside the operation of this feature of the proposition. This is because they involve payments directly to individuals, not government. These programs therefore will be ones to feel the pressure for cutbacks when the budget squeeze is on.

Four local loopholes

Turning from the state expenditure limit to the provisions relating to local government, the proposal is a considerable loosening of the requirements in present law that the state reimburse local governments for state mandates enacting a new local program or increase in the level of service. The proposal contains the following four major loopholes:

- The state will not have to reimburse for mandates defining a new crime or changing the definition of a crime. This provision creates an incentive to use the criminal system rather than state or local regulating powers to enforce public policy.
- The state will not have to reimburse for mandated workload increases such as new judges.
- The state will not have to reimburse for mandates which apply to private activity as well as to government activity. This might include air pollution control facilities, for example.
- Most important, the state will not have to reimburse for mandates contained in executive orders which are based on statutes in existence at the time the initiative is voted on.

Shift, not limit

The measure proposes, in fact, a general loosening up on the ability to raise local taxes. This may make it more of a revenue shift rather than a revenue limit proposition. Local boards, other than schools, can under this plan raise property taxes by 4/5 vote without a vote of the people. The Legislature by majority vote can authorize a local sales tax increase and by two-thirds vote a local income tax. Since it would take two-thirds vote to enact any state tax, under this measure, but only a majority vote of the Legislature to let the local politicians carry responsibility for the tax increase, it seems logical that the Legislature would follow that course and local sales and even income taxes may increase. There should also be a lively increase in business taxes, since they are easiest to raise. The re-

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sult may well be a growing hodgepodge of local tax systems, an unhappy development in the view of most tax authorities.

If we look at what the proposal would have done to the state budget assuming that it had been adopted in 1966, we find that state expenditures in the present budget year would be $2.3 billion or over 25 percent below what the Governor requested of the Legislature. We can assume that it would have made it necessary to eliminate entirely such programs as homeowners' property tax exemption, senior citizens property tax assistance, the business inventory exemption, the renters credit and the sharing of cigarette tax revenues with cities and counties. In addition to eliminating those major programs, we assume that it would have called for reductions in state support for local schools by almost 3/4 billion dollars or over 30 percent; higher education support would have been reduced by $134 million or 15.7 percent; social welfare support would have been reduced by $125 million or almost 15 percent; the Department of Health budget would have been reduced by $417 million or over 15 percent; and in addition to this it would have been necessary to cut $123 million from other state budgets. (In making these assumptions, we eliminated those programs which were added last, — a concept of the last in, first out accounting principle, which I think is reasonable in attempting to assess what the impact would have been.)

More importantly, if we look to the future, we anticipate that workload expenditures would have to be reduced by $620 million in 1974-75. By 1977-78, the required reductions would be $1.37 billion. How is the state likely to cut back on expenditures as the limit continues to fall and press down on the state's budget?

It will obviously reduce state subventions to local government, state payments to individuals (such as Medi-Cal and senior citizens property tax assistance) and state operations such as the University of California and the State Colleges. The poor counties will fare badly. The problems of unequal local wealth which led to the Serrano decision for schools will be compounded.

I fear we will quickly lose much of what has been gained by use of the state's broad tax base to make less uneven and onerous the burden on local taxpayers in supporting all state mandated programs.

Why is it necessary?

Finally, in undertaking such a drastic measure as this, one must consider why it is necessary. Let me examine critically the statement made by proponents of the initiative that taxes take 44 percent of the personal income of Californians. The proponents of this plan used misleading and highly inflated types of receipts and erroneously classified them as taxes to arrive at this assumption. They have erroneously classified the following types of the receipts as taxes in order to obtain this 44 percent figure: admissions to the University basketball and football games, University bookstore receipts, board and room charges of students, private donations to the University, bridge tolls, employee retirement contributions, local airport receipts, local hospital charges, U.S. Postal receipts and receipts from the sale of agricultural products by the federal government. After examining the assumptions and data used by the proponents we conclude that the 44 percent is grossly inflated and a more reasonable figure would be 32 percent.

The second major argument as to why this measure is necessary deals with the prospective increase in taxes, with the argument that in only 15 years taxes will be a staggering 54 percent of Californians personal income. To reach that conclusion, the proponents have estimated that state revenue will almost quintuple during the next 17 years, going from $9.3 billion in 1973-74 to $47.1 billion in 1989-90.

Pattern change forecast

We feel that it is highly speculative to assume that this pattern will be repeated over the next 17 years. We know that during the early 1960's through 1966-67 most of the major expenditure categories did increase faster than the growth of personal income. It must be remembered that during this period there were substantial increases in school enrollments. However, school enrollments have stabilized and there is, in fact, a downward trend in elementary education enrollment.

Effective control over expenditures is, of course, a laudable objective. I would contend that by and large the record of California's state government is a good one in this respect. The Governor, with his power of line item veto, can and does cut it back as he sees fit. He has a powerful last choice over expenditures. Not since the 1940's has a Governor's veto been overriden by the required two-thirds vote of the Legislature.

Since 1960 the percent which state operations has taken out of the personal income of Californians has changed almost not at all. The only real changes have been where the state attempted to meet growing local property tax increases.

Gimmicks in our future?

Artificial limits, as complicated as this one is, may badly distort economic and social judgements and make the state's decisions rely too much on the gimmickry of funding. It may increase the use of the regulatory power of the state to create commissions, whose costs fall directly on the private sector and thus avoid the problem of the public expenditure.

This measure does not appeal to me as a good public economics. It may well constitute an overreach of the state into the private economy, and it may well end up as a retreat on the part of the state from the development of sound fiscal relationships and responsibilities with respect to local government. It may well add to the total administrative cost of government in California, with functions being carried out by the wrong level of government, using the wrong kinds of taxes, and in a bureaucratic and costly manner. While we should keep surpluses to a minimum and taxes should be only high enough to cover our minimum costs so that any new expenditure programs will face unpopular tax issues, that can be done by intelligent planning and prudent management. There is nothing automatic that will produce any of these public finance virtues. The system we now have, however, can, I believe, with a moderate amount of public pressure secure these results.

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Six additional brief views on why drastic ta

Milton Friedman, professor of economics at the University of Chicago, in response to the question: "Why not reduce government by cutting bad programs?":

That's been tried over and over again. It never worked because, when you take one program by itself, all of the people who have a special interest in that program land in Sacramento. It's worth their while to spend a great deal of energy on it.

On the other hand, the public interest in having that program is diffused. Each one of us saves a few cents, but for the special interests, those clients accumulate into a great many dollars. As a result, whenever you try to take off one special program at a time, the special interests win every time and the general interests is suppressed.

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The great virtue of this proposal is precisely that it lumps together all of these little programs into one bigger total and thus makes it possible for the public interest — that is, your interest and my interest — to be reflected in the same strength and the same force as the separate public interest.

For 150 years, from the birth of the Republic of the United States to 1932 or '33, we had governmental spending kept down to relatively small levels. In the past 40 years, we've had a revolution. The New Deal ushered in a period in which government spending has been growing by leaps and bounds . . . Something historic needs to be done to stop that process.

William A. Niskanen, professor in the Graduate School of Public Policy at the University of California at Berkeley and a member of the panel that helped draft the initiative:

The primary case for a limitation on total state spending is that each of the groups contributing to decisions on state spending has an incentive to spend more than is valued by the population.

• The bureaucracy has the strongest relative incentive to increase state spending because this provides for more public jobs, higher salaries, more contract funds, more power and prestige, etc . . .

• The Legislature, as a body, faces most of the political benefits and costs of state spending. Most of the political benefits, however, accrue to the advocates of increased spending, who usually dominate the review committees, and the political costs accrue to all of the legislators. This causes each legislator to advocate spending that specially benefits his constituents and to hope that someone else controls the total level of state spending and taxation . . .

• The Governor, more than any other state official, bears both the political benefits and costs of state spending. Many spending proposals, however, involve costs beyond the Governor's tenure. Any Governor thus has an incentive to claim the political credit for such spending proposals, the political costs of which accrue partly to his successor.

• Private suppliers of goods and services to the state obviously have a strong incentive to promote state spending. The interests of these groups, not surprisingly, are better represented by the Sacramento lobbies than those of consumer and taxpayer groups.

• Voters ultimately receive most of the benefits and bear most of the costs of state spending. There appears however, to be a differential perception of benefits and costs, primarily because voters do not pay directly some of the major types of state taxes. In addition, some taxes are "exported" to residents and voters of other states. These two effects probably cause voters to approve higher state spending than they would if they recognized and paid directly all state taxes . . .

The proposed tax limit amendment, by itself, will not change or correct any one of these conditions. The sole objective of the proposed limit is to constrain the authority of state officials to determine the total state tax revenues.

William Craig Stubblebine, professor of economics at Claremont Men's College and Claremont Graduate School:

Our inability to predict or project the future with a high degree of certainty should be of little consequence. Whatever be the levels of income, of population, of inflation, of popular demand for public services, or of allocation of responsibility awaiting us in the future, the revenue control amendment has within it the power and the flexibility to meet the majority interests of the California electorate . . .

It is true that local governments have, or may be given authority to raise additional revenues from non-property tax sources. To the extent local electorates permit this behavior by their respective governments, their burden of taxation will increase. However, it would seem to me that this level of government — the local level —is most responsive to majority wishes and least open to control and manipulation by minority special interests. Here, more than anywhere else in government, competition among communities for tax base and for the protection of property values serves to constrain these special and willful interests. That the amendment leaves to local governments the flexibility to adjust revenues to local voter interests therefore would seem appropriate . . .

This amendment does not, in the words of several critics, "shift costs to local government."

Several of these arguments are excerpts from publications issued by the Institute of Governmental Studies at the University of California, Berkeley and the UCLA Institute of Government and Public Affairs.

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limitation plan should be adopted or rejected

Assembly Speaker Bob Moretti:

Strip away the camouflage and you'll find Proposition 1 isn't concerned about easing the tax burden of the general public. It's an effort by the wealthy to reduce their state income tax. It qualified for the ballot behind the most expensive initiative campaign in history, featuring costly ads and professional petition circulators.

But if most voters going to the polls November 6th (a special election date chosen for its low turnout potential) are deceived, the gamble will have paid off. The rich will win a new loophole — at the expense of the vast majority of Californians. As the declining percentage formula which limits state expenditures forces deeper and deeper program cuts, it will be necessary to tap other revenue sources to continue essential services. Inevitably, local sales and property taxes will go up. Both are regressive and strike hardest at low- and middle-income people.

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Another "sleeper" in the 5,000-word proposed constitutional amendment is particularly offensive to me. After many years of struggle, the Legislature in 1971 finally pushed through a "minimum" income tax provision, reaching those who are wealthy in every way except on their tax returns. They attained a very low Adjusted Gross Income (AGI) because of write-offs allowed income from such "preferential" sources as capital gains and oil depletion. Dozens of people with six-figure earnings paid no state taxes until we tightened this loophole.

By exempting single persons with $4,000 AGI and couples with $8,000 AGI from any tax at all, Proposition 1 seeks to serve the rich in the guise of concern for others. The initiative will do nothing to help those Californians truly in the low-income category because they already have virtually no state income tax liability.

George F. Break, chairman of the department of economics at the University of California at Berkeley:

The governor's "reasonable program for revenue control and tax reduction" is on close inspection less a "reasonable program" than a shaky, pressure-cap solution to a problem whose dimensions have been grossly exaggerated and whose very existence is doubtful. It is no small irony that a Governor who possesses a line-item veto power and a strong will to use it should feel compelled to call for the mobilization of entirely different kinds of forces in the budget-control battle. Clearly he believes that worries about fiscal matters are widespread and that something rather dramatic ought to be done to allay them . . .

Some of the supporters of the "tax reduction" program might be shocked if they were to study the proposed legislation carefully. Like the animals on George Orwell's farm, some of the reductions would be "more equal than others." Some services now financed partially or wholly by tax revenue would undoubtedly be subject to user charges. A prime example would be university tuition. Other budgetary pressures would be met by increases in the relatively few local taxes which could readily be adjusted, such as business license fees. Some of these changes might be much to the liking of many people, but others might cause rather widespread alarm . . .

It seems clear that the proposed initiative is exceedingly complex and is likely to cause important and highly controversial changes in government operations in this state. Californians for Lower Taxes, unless they pursue that laudable goal with great care and skill, are likely to rediscover an old truth in a new form. Just as there is no free lunch, there is also no cost-free tax reduction program.

Neil H. Jacoby, professor at the UCLA Graduate School of Management:

There are clear indications that the forces expanding California expenditures during the last decade are losing strength. California taxpayers probably have reached a saturation point in their willingness to support state exenditures. The probability is high that the proportion of California incomes spent on state services will decline in future years faster than would be required by the proposed constitutional limitation. Immigration has almost ceased. Welfare caseloads are declining. Higher education costs are rising more slowly as student admissions taper off. Road building has clearly passed its peak. Barring a new state spending initiative on rapid transit, or a major shift of governmental responsibilities from local or federal to state governments, it seems likely that California expenditures will rise by less than eight percent a year for several years ahead. If this be true, the constitutional limitation would be inoperative . . .

What effect would a constitutional limitation of expenditures of 8.3 percent of personal income less one-tenth of a percentage point a year have on actual expenditures, when the desired level of spending is less than the permitted level? Theoretically, it should not have any effect. Yet practical experience teaches us that paradoxically, it may serve to increase state spending. The reason for this ironic result is that, in American government, maximum limits on economic variables tend to become norms or targets.

Supporters and Opponents

Here is how some of the State's major organizations are aligned on the tax limitation initiative:

FOR — California Taxpayers Association, State Chamber of Commerce, California Real Estate Association, California Apartment Association.

AGAINST — League of Women Voters, League of California Cities, California Supervisors Association, California Teachers Association, American Association of University Women.

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Analysis of key provisions in Proposition 1

Here are the principal provisions of the tax limitation initiative on the November 6th statewide special election ballot:

Expenditure ceiling. At the heart of the measure is the proposal that expenditures from state tax revenues be limited to their current percentage of state personal income and that this percentage decline by one-tenth of one percent a year. Economists estimate the current ratio at 8.3 percent. Thus, the limit on state spending during the 1974-75 fiscal year would be 8.2 percent. Beginning in 1989-90 the year in which the limit reaches 7 percent, the Legislature would be allowed by two-thirds vote to eliminate further reductions in the limitation. As a safeguard against a sudden decline in personal income, an alternate formula provides that at no time shall the limit be less than the amount collected per capita in the current fiscal year as adjusted for inflation.

Increases authorized. The overall expenditure limitation could be increased or decreased by a majority vote of the people at a statewide election. Such a proposal could be placed on the ballot by a two-thirds vote of the Legislature or through the initiative process. The limitations could also be increased to provide local property tax relief if there is a commensurate reduction in property tax rates.

Tax refunds. In the event the state collects more money than it can spend under the limitation formula, the Legislature would be required to make periodic tax refunds or reductions from a special tax surplus fund.

Emergency fund. The Legislature is required to establish an emergency fund of not more than two-tenths of one percent of personal income. Upon the proclamation of an emergency by the Governor, the Legislature would be authorized to spend funds to meet the emergency, which is defined as "an extraordinary occurrence requiring unanticipated and immediate expenditures to preserve the health and safety of the people." If the fund is exhausted, the Legislature could dip into the tax-refund reserve or could authorize additional taxes by two-thirds vote. However, the special tax could remain in effect for no longer than two years without majority vote of the electorate.

Two-thirds vote requirement. The initiative also includes a long-time pet Reagan plan to require a two-thirds vote of the Legislature for the institution of a new tax or a change in the rate of any current levy. At present, a simple majority vote is required with the exception of certain taxes on banks, corporations and insurance companies (these require a two thirds vote). A two-thirds vote of the Legislature also would be needed to give local government the right to levy a personal income tax. Other local government taxes would remain subject to change by majority vote.

Property tax limits. Tax rate limits would be established for cities, counties and special districts similar to those imposed in the Reagan-Moretti tax reform measure of 1972 (SB 90). These limits, based on the rates in effect in 1971-72 and 1972-73, could be raised or lowered by vote of the people in the jurisdiction. Local governing boards could meet emergencies by raising taxes by four-fifth vote, but the levy would lapse after two years unless it were approved by vote of the people. In addition, the Legislature could authorize property tax increases to offset unusual cost-of-living or population trends as well as circumstances creating hardships for local government agencies.

State mandated programs. Duplicating a provision in the Moretti-Reagan tax program (one that can be ignored almost at will by the Legislature), the initiative would place in the constitution the requirement that the state provide the funds for any new or augmented program mandated on local government. There are certain exceptions, such as the creation of a new crime, which presumably would require additional work by local law enforcement agencies.

Income tax rebate and reduction. Californians would get a 20 percent one-time credit on personal income taxes for 1973 out of the State's current large surplus. However, this provision was superseded by a personal income tax refund voted by the Legislature this year. On a permanent basis, the measure provides a 7½ percent income tax cut starting with 1974. Individuals with incomes below $4,000 and married couples or heads of households with incomes below $8,000 would be exempted altogether from state income taxes (this provision also has already been enacted by the Legislature).

Possible court action. The initiative contains a severability clause stating that if any portion of the proposition is declared unconstitutional, the rest of it would remain in effect.

Exemption for debt and pensions. The tax limitation provisions would be suspended if necessary so that bond issue and pension obligations could be met.

Economic estimates commission. Each year's revenue tax limit would be established by April 1st by an Economic Estimates Commission consisting of the state controller, the state director of finance or another appointee of the Governor, and a legislative designee who is not a member of the Legislature.

Declaration of purpose. The goals of the measure are stated as: limitation and reduction of state taxes, refund of surplus state revenue, limitation of local property taxes, establishment of an emergency funding procedure, and requirement that voters approve future increases in the general level of taxation.

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PRIVATE ENTERPRISE TAKES OVER

Orange County boldly goes out of EDP business

BY DON SMITH

When the five members of the Orange County Board of Supervisors gathered for their regular meeting February 27, 1973, none of them had any idea they were about to embark on a program that would make local governmental history. Yet, on August 7th, those same supervisors wound up voting unanimously to turn over the county's data services department to Computer Science Corporation of El Segundo, one of the major facilities management organizations in the nation. The price of the new contract was $26.6 million over a seven-year period, about $11 million under what the county had estimated its own costs would be. And the county had a firm price commitment that included cost-of-living and workload increases. If other governmental agencies follow Orange County's lead, the effect could be a shift of hundreds of millions of dollars of work from the public to the private sector.

Mindful of a few facilities management problems in the past, the Orange County supervisors required the company to post a $5 million performance bond, created a new post of contract administrator to oversee the new operation and required the firm to hire all of the county's former data processing employees who wished to make the change, with the exception of the department director who received only a 30-day terminal leave bonus.

Orange County revolutionary?

It was a somewhat unusual decision for California's second most populous and, at least by reputation, fiscally most conservative county. The revolutionary step started with an $85,000 study by Arthur Anderson and Company involving the county's data services department. On February 27th, the Anderson report recommended that the county replace its long out-of-date RCA computers with a new massive UNIVAC 1110 which, in addition to being one of the latest machines could also handle the county's computer needs for at least the next five to seven years.

But one member of the board had some questions about that report. Ralph Diedrich, who had been in office only two months, wasn't satisfied with the findings. An agressive, self-made millionaire builder, he had used some of his own funds to hire an outside expert, William Butcher, brother-in-law of Assemblyman Kenneth Cory and the owner of a political campaign computer letter firm, to analyze the Anderson report and make his own findings. Butcher's study showed that:

- the UNIVAC 1110 was too new to be in common use by a large number of other governmental agencies.
- the county could lose any chance of buying already-developed computer programs from other counties, most of which were geared for IBM.
- the Anderson study had rejected out of hand any thought of using private industry to handle any or all of the county's EDP work.

Armed with Butcher's findings, Diedrich challenged the Anderson report to the obvious surprise of his colleagues, company representatives, County Administrative Officer Robert Thomas and, most of all, County Data Services Director Robert Farmer. Why, Diedrich asked, should Orange County pioneer in the use of the UNIVAC 1110? Why had not the Anderson study delved into the use of private firms to handle some of the county's work? Eventually, the freshman supervisor won a 60-day delay in accepting the Anderson report along with a promise that private industry could review the county's computer programs and submit bids on any or all of them.

Blue-ribbon committee

The idea of private firms bidding on county work expanded into a full-scale study of the advantages of hiring a facilities management operator (FMO) to handle all of the computer programs, using the county's facility but with the company's own personnel and equipment. In short, the county would get out of the computer business.

The county empaneled a blue-ribbon committee of computer experts from nearby universities and major industries. Since its role was basically technical and advisory only, no one took any minutes, a failure that was to boomerang later. When County Administrative Officer Robert Thomas made his final recommendations on June 20th, he told the supervisors that the blue-ribbon committee had endorsed the concept of using an FMO for the computer operations and had given its unqualified endorsement to IBM over UNIVAC. Not so, charged one of the committee members, Dr. Thomas Penderghast of Pepperdine University. In fact, he said, the committee's recommendations had been just the opposite. Diedrich eventually managed to muster support from two other Democratic members of the board, and the concept of going to facilities management was approved. Thomas was ordered to start negotiations immediately with two firms, Computer Science Corporation and Electronic Data Systems Corporation of Dallas, Texas.

Fearing a Democratic plot, the county Republican

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Central Committee organized its own study committee to investigate the problem. The Orange County Grand Jury, whose foreman, Mrs. Marcia Bents, had resigned a Republican Central Committee post to accept the jury duty, opened its own investigation. Computer experts, some real, a few self-styled, began coming out of the walls to challenge one side or another.

Perhaps the lone-serene voice at that time came from Pepperdine's Dr. Penderghast. He bemoaned most of the rhetoric that was flying about with these words: "The impact of this decision will be felt in the administration of county government and the pocketbooks of Orange County residents for many years to come. I hope the decision . . . will be based on objective tradeoffs and not just strong feelings of several individuals."

CSC bids low

By early July, Thomas was ready with his final report. Computer Sciences Corporation had offered to take over all of the county's computer programs for the next seven years at a total cost of $26.6 million, including an allowance for five percent cost of living and workload increases. EDS, which had not included the cost-of-living or workload increases in its original proposal, wound up with a net bid of $41.1 million. Thomas' staff had calculated the county's in-house costs over the same seven years would be $35.5 million. Both CSC and EDS proposed to use the IBM 370 computer while the county estimate had been calculated on the use of the UNIVAC 1110.

The controversy wasn't over yet. Supervisor David Baker, who had opposed the move to a private contract initially, called for a three-week delay on any decision and the recall of the outside committee. What concerned him, he said, was that the nation's two top facilities management firms could wind up so far apart on their bids.

Computer security at issue

The issue of security, involving everything from personnel lists to voting counts, had become one of the critical issues in the whole argument over switching to an FMO system. The Orange County Republican Central Committee had appointed its own group to look into voting security; state Senator Dennis Carpenter had asked the Legislative Counsel if the county could use an FMO to count ballots; Representative Andrew J. Hinshaw inquired about safeguards to protect the vote tabulation system and the recourses a candidate or the county would have against a contractor who failed to perform his duties correctly.

The blue-ribbon panel met again July 19th, but this time, the session was an open meeting. The committee finally agreed, this time for the record, to support the idea of using facilities management. However, the panelists urged the county to boost the proposed performance bond from $1 million to $5 million — just in case the private operation broke down and the county had to take over again.

Stewart Fliege of Pepperdine, a former CSC official, said the difference in the two offers came primarily from a difference in bidding philosophies. CSC, he explained, had used its field rates and was willing to take a bigger risk. EDS, on the other hand, had offered its commercial rates and tried to eliminate the risks, he explained. None of the panelists appeared to be overly concerned about security. Both CSC and EDS handle top secret work for the federal government — CSC, for instance, operates a military systems support center for the Joint Chiefs of Staff, they explained. "Besides," Fliege said, "there is a lot more motivation involved. If there is a leak in county-run programs, they might fire the employee involved and maybe his immediate supervisor. If there is a leak under the FMO contract, the company stands to lose a $26.6 million operation plus a $5 million performance bond. That's quite a bit to lose."

Supported by the blue-ribbon panel, county officials headed full tilt toward a scheduled July 31st approval of a formal contract. But, it was not to be. The contract document itself drew heavy criticism from both the Grand Jury and Supervisor Baker. One change which won enthusiastic endorsement from the entire board involved a clause prohibiting CSC to use any spare time on the county computers to prepare and print political campaign computer letters.

The Legislative Counsel's office had taken a hand in the issue with an opinion that a county could not use a private computer firm to count ballots. However, County Counsel Adrian Kuyper cast the opinion aside, noting that as far as he was concerned, the contract complied with the election laws because the computer would be used only as an adding machine on election night.

Employees benefit

The new proposal had some good news for those county employees who would be dropped, however. Initially, they were to receive severance pay only if they chose not to go with CSC or if they left the firm before the end of 90 days. Now, to avoid any labor unrest, county officials agreed to pay everyone severance pay whether they went with CSC or not. Those who were within a year of retirement, however, would remain with the county in some other department. The only employee who would not be eligible was data services chief Farmer, who received 30 days termination leave instead.

Now, for the first time, CSC President Erwin Allen disclosed how the company had been able to bid only $26.6 million for the contract. "The reason," Allen declared, "was that we spent several weeks looking over the various operations here before we made our bid, I have a hunch the other company guessed on a lot of it." By the first week in August, the final contract was ready for the board's approval. Five months of argument came to an end. The unanimous vote was almost anti-climactic.

Success remains to be seen

It won't be as easy as it sounds, however. RCA programs must be converted to either IBM or UNIVAC, whichever the contractor selects. A contract administrator still has to be hired and no one will know for probably two or three years if the plan will work out as its supporters have hoped.

But, those are the more technical problems. The truly hard part, persuading a local governmental body in a politically conservative area to give up one of its favorite status symbols, is over. Private industry, which has been claiming for years that it could do government's business "better and cheaper", has a chance to put its money where its mouth has been. Government, which always talks about efficiency and economy, has placed one of its pet theories on the line as well. The results will be of interest throughout California. Perhaps, even the nation.

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Do California trial delays produce coddled criminals?

Critics and supporters of the California judicial system agree that the state's trial courts are congested and could stand improvement. The dispute between the two factions arises in the next step in the analysis: Critics view the pitcher that sits upon the judiciary's bench as half empty and cry out for major reforms. Supporters see the pitcher as half full and claim that there is no need to tamper with the rights of defendants to make courts more efficient.

Congestion and its resulting trial delay is rooted in civil as well as criminal cases, but it is crime that catches the public eye, and it is in that area that the debate has been most volatile. New elements have been added to the controversy of late, and they are likely to be an integral part of the debate over proposed judicial reforms in the 1974 legislative session.

ACLU for status quo

The Governor's Select Committee on Law Enforcement Problems (see pages 310 and 311) urges a series of changes to speed the processing of criminal defendants. The American Civil Liberties Union, meanwhile, has published a study by Coleman Blease and Harriet Katz Berman concluding that California's courts are not nearly so inefficient as critics paint them and warns against attempts to achieve greater efficiency "by simply lopping off various rights of criminal defendants."

The select committee and the ACLU draw on many of the same sources for their studies — the annual reports of the California Judicial Council and the state Bureau of Criminal Statistics. But some of their conclusions and recommendations are born of different perspectives. The select committee suggests, for example, reduction of the size of juries from 12 to six members and abandonment of the unanimous verdict, adopting in its place a five-sixths requirement.

High conviction rate

The ACLU study attempts to debunk "a whole mythology about the burdensomeness of our court system." Underlying the attacks on the judiciary's handling of criminal cases, the ACLU says, is the contention that the courts are coddling criminals. In fact, the study indicates, the overall conviction rate for felony defendants in California superior courts is 85.8 percent.

Furthermore, it notes that there is no appreciable increase in dismissal rates in the kinds of cases where the legality of searches and seizures is most frequently at issue. "The overall rate of dismissals in all felony cases is 8.2 percent; in dangerous drug cases (where search and seizure often is an issue), it is only slightly higher — 8.7 percent," the ACLU points out.

In supporting its recommendation for reduced jury sizes and less-than-unanimous verdicts, the select committee declares: "With the ever increasing number and length of jury trials, there is a corresponding increase in the burden of jurors, the expense of jury fees, the time required for jury trials, and, therefore, trial court delay . . ."

Felony filings fall

The ACLU, however, points out that there has been a significant decline in the volume of criminal cases. Felony filings in California superior courts dropped by nearly 11,000 cases in 1971-72, and criminal cases brought in municipal courts decreased by more than 14,000 during that period, according to the study. The ACLU adds that very few criminal cases are decided by juries. In 1971-72, for example, juries were sworn in 4,320 felony cases, out of a total of 61,342 criminal dispositions. In non-traffic misdemeanors, there were 4,361 jury decisions in 468,807 cases. The ACLU also maintains that the annual cost to the people of California for all felony jury trials amounts to less than 15 cents per person.

The ACLU concludes that "the blame for crowded conditions in the courts cannot be placed on criminal cases, nor can it be placed on constitutional safeguards that protect the rights of criminal defendants."

The ACLU might take sustenance from the courts themselves. In 1971, the state Judicial Council, under the leadership of California Chief Justice Donald Wright, began an effort to improve management techniques in the state's metropolitan superior courts. Wright reported this year that, for the first time since 1965, the number of pending civil and criminal cases has decreased in the state's courts. The ACLU study, in fact, directs attention to the Judicial Council's efforts toward more efficient court management as a proper alternative to some of the proposals of the select committee. Under those new management approaches, for example, San Francisco's superior courts reduced their backlog of felony cases from 788 in January of 1971 to 224 in November of 1972. Felony filings in Los Angeles superior courts were cut in 1971-72 by 10,000 cases.

Fears apply elsewhere

Is that sufficient progress? Chief Justice Wright appears satisfied. He told a conference of superior court judges this year that public fears of a crisis in the courts do not apply in California. Elsewhere in the United States, he said, trial delays of four to five years are common. "The word 'delay' has totally different significance in California," he said. "We cannot, of course, look with complacency upon an elapsed time from filing of a civil case to the disposition of a jury trial which ranges up to 39 or 40 months. But, treating the normal period of one year required for the disposition of civil jury cases as inevitable and, indeed, desirable, the fact is that most of our courts are operating on delay figures of only one or two years," Wright added. The Chief Justice, it is obvious, believes the pitcher to be half full.

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Criminal Justice Committee expected to reject most law-and-order proposals by Governor's panel

Governor Ronald Reagan's Select Committee on Law Enforcement Problems, one of his so-called legacy task forces, completed an 11-month study August 1st with the publication of a report containing almost 100 recommendations for solving California crime problems. What are the chances that the tough law-and-order proposals in the report will be adopted by the Legislature? In a word, none.

The Assembly Criminal Justice Committee, which must approve any crime and punishment measures before they can become law, has already seen and killed most of the important recommendations. And the committee chairman, Democrat Alan Sieroty of Beverly Hills, has already put the kiss of death on perhaps the single most important recommendations in the report, elimination of the "exclusionary rule" established by a series of California and United States Supreme Court decisions. The rule states that evidence obtained by unreasonable search and seizure is excluded from use in a trial.

The task force offered to soften its exclusionary rule plan by coupling it with a recommendation that public agencies become liable for damages and attorneys' fees when law enforcement officers engage in illegal search and seizure activities. This, said the select committee, would be "a better means of redress for victims of unlawful searches."

Top-priority proposal

Reagan said the exclusionary rule has permitted confessed criminals to walk free without any punishment for their crimes, and abolition of the rule is probably the most important recommendation of the committee. He added that the rule has had a devastating effect on law enforcement and has been applied in cases that border on the ridiculous.

Sieroty, however, described the rule as "the only effective way to make sure that law enforcement agencies obey the law in their zeal to bring to justice those others who have violated the law." The Watergate case, he emphasized, should teach citizens that government agencies must not be allowed to commit illegal acts to accomplish what they think are higher objectives. "Governor Reagan never did understand what Watergate meant," Sieroty added, "and he has not made one comment that would indicate that he has learned anything from the whole episode."

Lone obstacle

The criminal justice committee is virtually the only obstacle in the path of numerous bills sought by law enforcement agencies and others who want to crack down hard on crime. The committee has long taken a dim view of almost any proposal that increases penalties for offenses or that weakens the defendant's right to a unanimous 12-member jury verdict.

Speaker Bob Moretti has appointed four Democrats and three Republicans to the committee. Two of the Republicans, Frank Murphy of Santa Cruz and Ken Maddy of Fresno, have occasionally parted ways with the law-and-order forces. Sieroty and the other Democrats on the committee — Henry Waxman and Julian Dixon of Los Angeles and Ken Meade of Oakland — have held the hard line against such proposals as six-member juries, mandatory imprisonment for narcotics peddlers and several other proposals similar to those in the task force report. (Dixon, a newcomer to the committee this year, is supposed to represent the "swing vote", but in actuality he has almost invariably voted with the other Democrats.)

Police merger suggested

The Reagan task force report contains 52 recommendations that are labeled as "major". Many of them can be implemented without legislation; for example, requesting the Governor's task force on local government to investigate the feasibility of merging small local police departments. But these proposals would have little immediate effect on crime in California. Other proposals will probably not be controversial, and the Governor may be given a free hand to implement them; for example, requiring that manufacturers place serial numbers on items frequently taken by burglars.

Where the Administration will run into extreme difficulty is in the dozen or so proposals, like abolition of the exclusionary rule, which will make it easier for police to convict criminals and send them to prison. Under the task force plan, anyone selling marijuana, using heroin, or wielding a firearm while committing a crime would face a mandatory incarceration. Defendants could be convicted by five members of a six-person jury, compared to a unanimous 12-juror vote at present. More Californians would be sent to prison and the state would no longer reward counties for placing criminals on probation. The majority members of the criminal justice committee — hardly representative of the Legislature as a whole — happen to take a dim view of the lock-'em-up-and-throw-away-the-key attitude toward the solution of crime problems.

The 164-page report "Controlling Crime in California" and subtitled "Protecting the law-abiding" was prepared by a five-member committee consisting of Edwin M. Osborne, Ventura county counsel, chairman; Raymond C. Brown, Oakland deputy chief of police; Edward L. Ehlers, deputy director of the state department of Navigation and Ocean Development; Vernon Grose, vice president of the Tustin Institute of Technology, and Colonel Anthony L. Palumbo, inspector general of the California National Guard. The committee worked with a steering committee composed of 14 high-ranking officials of the Reagan Administration headed by Edwin Meese III, executive assistant to the Governor.

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Major recommendations of crime task force

These are the major recommendations of the Governor's Select Committee on Law Enforcement Problems:

Organization of the criminal justice system

Create a Public Safety Agency consisting of the California Highway Patrol, Department of Corrections, Youth Authority, Military Department, Department of Public Safety Services, State Fire Marshall, Office of Criminal Justice Planning, California Crime and Technological Research Foundation, Commission on Peace Officer Standards and Training, Office of Emergency Services and the California Council on Criminal Justice (renamed the Office of Criminal Justice Planning).

Require use of a uniform crime report and follow-up procedures that would follow offender from arrest through corrections.

Establish a model for automated crime information, and establish a goal of an integrated automated system of crime data reporting by 1983.

Assisting police in protecting the public

Develop a basic mutual aid plan and make it available to local law enforcement through the Office of Emergency Services.

Train and maintain a list of qualified personnel to act as field commanders and to provide specialized services in a major emergency.

Develop trained specialists in disarming explosives, sniper suppression, use of non-lethal riot-control gas and other specialized functions.

Local enforcement problems

Ask the Governor's task force on local government to explore the possibility of consolidating small law enforcement agencies into more efficient units.

Request the Commission on Peace Officer Standards and Training to establish standards for training personnel in follow-up investigations.

Ask the President to request that the Federal Communications Commission establish a center in Los Angeles to relieve congestion of law enforcement radio communication in urban areas.

Ask the Governor to appoint a committee to recommend steps to standardize local regulation of private police.

Citizen participation

Help local government establish the universal emergency telephone number 911 to assure prompt-test possible response to calls for help.

Encourage newspapers to establish so-called Secret Witness programs to help solve crimes.

Propose legislation requiring that manufacturers put serial numbers on items frequently taken in burglaries.

Encourage civic groups to sponsor programs to have citizens engrave their driver's license numbers on valuable items.

Prison for gun and drug offenses

Declare a clear state policy that criminals who wield firearms shall go to prison. Develop effective methods to enforce this policy in courts.

Prohibit probation for anyone unlawfully armed with a firearm at the time of arrest or in the commission of a crime.

Make a prison sentence the general rule rather than the exception for convicted narcotics pushers (including the sale of marijuana).

Conviction for possession of heroin for sale should result in a mandatory prison sentence, with probation possible only under "the most compelling and extenuating circumstances."

Develop means of evaluating drug rehabilitation programs and withhold funds from those that are not effective.

Give anyone convicted of using heroin three choices:

- Commitment to the California Rehabilitation Center.
- One year in the county jail.
- Five years probation, with the first 90 days in the county jail.

Assure adequate control of methadone.

Stiffen the drunk driving law so that a person with a blood alcohol reading of 0.10 percent is considered under the influence, regardless of the outcome of balance and coordination tests.

Courtroom reforms

Abolish the "exclusionary rule" on search and seizure. Make a public entity liable for damages and attorney's fees for unlawful searches and seizures by law enforcement officers as a better means of redress for victims of unlawful searches.

Develop strict standards for plea bargaining.

When sufficient evidence is available, prosecute perjury even if the defendant has already been sentenced in the case involving the perjured testimony.

Adopt procedures to eliminate excessive delays in criminal cases. Assure that a case either goes to trial within 60 days.

Give priority to cases involving dangerous drugs.

Classify most minor traffic violations as infractions and handle them by informal procedure.

Authorize six-member juries for misdemeanors and felonies with penalties less than life imprisonment. Authorize verdicts by five-sixth vote of juries, except in capital cases.

Limit exemption for jury duty, and increase fees from $5 a day to $15 or $20. Provide conveniences to jurors to make service less of a burden.

Remove the general rule of secrecy in juvenile proceedings.

Sentencing and corrections

Reemphasize that the protection of the public is top priority in parole and probation policy. Increase prison commitments. Repeal probation subsidy, a program with laudable goals but which has failed to provide more effective rehabilitation.

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Recent Significant Court Actions

The following are significant decisions and actions announced by California's appellate courts during late July and August:

Pre-February coastal projects cleared

Coastal Zone Conservation Act permits are not required for projects along the state's coastline if substantial construction was started before February 1st of this year, the state Supreme Court ruled August 22nd in a 4-3 decision. The ruling is expected to result in reconsideration of scores of projects previously denied by regional coastal conservation commissions established by initiative last November.

The decision settled a dispute over when significant construction had to be underway to preclude the need for a permit by November 8th, the day after voters approved the initiative, or by February 1st, the day the law went into effect. The majority opinion was written by the newest member of the court, Justice William P. Clark Jr. A dissent was filed by Justice Stanley Mosk and concurred in by Chief Justice Donald Wright and Justice Mathew Tobriner.

The case came before the high court on an appeal by the San Diego regional commission of a lower court ruling that See the Sea Ltd. could proceed with a 72-unit condominium on the San Diego waterfront. The firm had applied for a city building permit in July 1972 and received it on December 6th. The company demolished a building and spent $79,000 on construction up to March 2nd, when the commission halted the project.

Unreasonable-search protections defined

The Supreme Court, dividing 4 to 3, has articulated a three-level "hierarchy of protection" against unreasonable search and seizure. All seven justices agreed in the case of *People* v. *Dumas* that a search without warrant by police officers is reasonable under the Fourth Amendment when the officers have cause to believe a car contains contraband.

The split came in what dissenting justices Sullivan, Wright and Tobriner labeled "the majority's gratuitous attempt to establish a hierarchy of Fourth Amendment protection based on fictional levels or degrees of privacy . . ."

Justices Mosk, McComb, Burke and Clark declared that Fourth Amendment protection is based on "the nature of the place subjected to search." Some places must be accorded a privacy that is all but absolute; others carry only an expectancy of privacy; still others are nearly public, the majority said. The court found that, unlike homes and offices which require maximum protection of privacy, automobiles are worthy only of a secondary protection of privacy.

College professor wins hearing

Dr. Eugene Zumwalt, once chairman of the English department at California State University, Fresno, has won a belated public inquiry into the causes for his ouster in December 1970.

The order for the public hearing was made by the Third District Court of Appeal. It was the second time the appellate court considered Zumwalt's case. The first time, the court denied that Zumwalt had a right to a public hearing. However, in its reconsideration of the case, the appellate court decided that the manner of Zumwalt's removal and the widespread publicity that attended it could be damaging to the professor's professional reputation. In such a case, the court ruled, there is a constitutional right to a public airing of the charges and an opportunity to refute them.

The court noted that Zumwalt's ouster was accomplished by the use of campus police who changed the lock on Zumwalt's office door and sealed his file cabinets. Thirteen faculty members were dismissed at about the same time, the court said, in what some published accounts referred to as a "purge" of liberals. *(Zumwalt v. Trustees of the California State Colleges)*.

Welfare notice plea rejected

The Supreme Court rejected a claim that welfare authorities are required by the constitution to give reduction or termination notices to welfare recipients in Spanish as well as English.

In the case of *Guerrero v. Carleson* originating in Los Angeles County, recipients under the Aid to Families with Dependent Children program contended that notices in English were insufficient when directed to persons literate only in Spanish. However, the court, in a 6 to 1 decision authored by Justice Mosk, declared that notice in Spanish "is not a constitutional imperative under the due process clause." The Court said it is sufficient that state agencies are making a good-faith effort to communicate in Spanish to as many recipients as is reasonably possible.

Two judges censured

For the third and fourth times in the 13 years since the Commission on Judicial Qualifications was established, the Supreme Court has publicly censured a judge.

Los Angeles Superior Court Judge Leopoldo Sanchez was "severely censured" and Los Angeles Municipal Court Judge Antonio Chavez was "censured," both for "willful misconduct in office." The Court followed the recommendations of the Commission, which was established in 1960 to investigate the fitness and conduct of California judges.

Judges Sanchez and Chavez were censured for routinely providing bail bondsmen with blank orders for release of prisoners. Previous censures were made by the Court in 1970 and 1971.

— Compiled by Dennis Campbell

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PEOPLE IN THE NEWS

John R. Teerink, deputy director of the state Department of Water Resources for the past six years, was appointed director of the department by Governor Ronald Reagan July 31st. He will succeed **William R. Gianelli,** who resigned July 30th from the post he had held since 1967. Gianelli, a Democrat, was given a 10-year term on the State Personnel Board by Reagan, replacing **Samuel Leask Jr.** of Los Angeles. Gianelli's resignation became effective September 1st, when he returned to private practice as a consulting water engineer. Gianelli said he was leaving because the first phase in the state's $3 billion water project had been completed with the delivery of northern water to southern California. Teerink, a 52-year-old Republican, indicated that there would be no major change in departmental policy. However, he gave conservationists some hope that there would be a slowdown in the push for the damming of more northern rivers by emphasizing that top priority should be given to more efficient use of present water distribution systems.

The contract of **H. D. Timm Williams,** director of the Reagan Administration's Indian Assistance Project, was not renewed August 1st, and Williams charged that one of the reasons he was ousted was that he told the press about his problems reaching the Governor. Williams, a 49-year-old Yurok Indian, is known to sports fans as "Prince Lightfoot," who danced and pranced at Stanford University football games for 21 year before the Indian was dropped as the school's mascot. The Governor's office said Williams lost his job because he had failed to provide adequate responses to questions about the fulfillment of his contract.

Carolyn Heine, executive director of the California *Commission on the Status of Women* for the past six years, resigned effective August 31st for personal reasons. The commission is accepting applications for the post.

D'Army Bailey, so-called radical Berkeley city councilman, was removed from office in a recall election August 21st. Berkeley voters selected as his successor **William Byron Rumford Jr.,** chief of police services for the Bay Area Rapid Transit District. Rumford, a moderate by Berkeley standards, is the son of former state Assemblyman William Byron Rumford.

The former mayor of Los Angeles, **Samuel W. Yorty,** joined the Westwood law firm of Rozner, Yorty, Landay, Biggs, Hodges, Bernstein, and Wagner as a senior partner specializing in international law. A spokesman for the firm said that Yorty, who traveled extensively while serving as mayor, would be visiting mainland China and other nations in the Far East and Europe.

Governor Reagan announced on August 9th the appointment of former Assemblyman **Don Mulford** of Piedmont as the state's deputy chief of protocol, a non-salaried position. Mulford will represent the Governor at events involving foreign dignitaries. After serving as a legislator for 14 years, Mulford was named chief of protocol for the city of Oakland. The state's chief of protocol is **Dan London** of San Francisco.

Another state welfare official headed for Washington in early August when **John A. Svahn,** California director of social welfare, was appointed head of the federal agency that distributes about $900 million a month in welfare checks. Svahn, 30, was named commissioner of the Assistance Payments Administration in the Department of Health Education and Welfare's Social and Rehabilitation Service. Several other California welfare officials had preceded Svahn to HEW posts.

Director C. B. Christensen of the state Department of Food and Agriculture, appointed **Robert P. Hartzell** as deputy director of the department. Hartzell succeeds **Raymond S. Long,** who had accepted a position as director of the Arizona Department of Administration. The new deputy director had been employed as assistant to the president of Trans-World Agricultural Development Corporation of West Sacramento.

CALIFORNIA CALENDAR

Sept. 17-20	**Board of Equalization.** Room 102, 1020 N Street, Sacramento. 2 p.m.
Sept. 19-20	**Board of Governors of the California Community Colleges.** Airport Marina Inn, Los Angeles. 9 a.m.
Sept. 20-21	**Highway Commission.** Eureka City Hall. 2 p.m.
Sept. 20-22	**Law Revision Commission.** International Hotel, 6211 West Century Blvd., Los Angeles, 7 p.m.
Sept. 21	**Regents of the University of California.** Los Angeles Convention Center, 1201 South Figueroa Street.
Sept. 25-26	**Board of Trustees of the California State University and Colleges.** Third Floor Auditorium, Office of the Chancellor, 5670 Wilshire Blvd., Los Angeles.
Sept. 27	**Council on Criminal Justice.** Host of Sacramento Airport Hotel. 9:30 a.m.
Sept. 27-28	**Social Welfare Board.** Building and time not set. Sacramento.
Oct. 2	**Coordinating Council for Higher Education.** Camellia Room, Sacramento Metropolitan Airport. 9 a.m.
Oct. 11	**Little Hoover Commission.** Room 6024, State Capitol, Sacramento. 9:30 a.m.
Oct. 11-12	**Board of Education.** Auditorium, State Building, 1350 Front Street, San Diego. 2 p.m.
Oct. 12	**Parks and Recreation Commission.** Building and time not set. San Diego.

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California Journal/*NEWSBRIEFS*

Payroll deduction of income taxes nabs million escapees

More than a million Californians had been escaping the payment of state income taxes prior to the institution of a payroll deduction system, according to state controller Houston I. Flournoy. During 1972-73, the first full fiscal year of withholding, the revenue from the personal income tax rose $219 million more than had been anticipated without payroll deduction, Flournoy reported.

The controller said some of the increase in the number of filings can be attributed to wage earners without any tax liability who filed returns to get their refunds. "But an increase of almost 20 percent in returns is significant even after allowance for refund filings and other variations," he declared.

Judge in Corona rules 18-year-olds can buy liquor

If you're between the ages of 18 and 21 and want to buy liquor legally, try a package store in the Riverside County community of Corona. If you're arrested, don't worry. Justice Court justice Frank Nimmocks will dismiss the case. Nimmocks claims it is unconstitutional to refuse to sell alcoholic beverages to adults, and that includes someone 18 years old.

The state is challenging the decision, and eventually the state Supreme Court will probably be asked to determine whether the state constitutional provision setting the minimum drinking age at 21 is legal. The justice contends that the equal protection clause of the 14th Amendment to the United States Constitution would permit persons 18 to 20 to buy liquor because they have all the other rights of adults.

"The age of 21 is rather arbitrary," he said after making the precedent-setting ruling involving a clerk who had sold two bottles of beer to a 19-year-old. "This privilege has always been tied to the age of maturity before. If you're not going to use 18, you might as well use 25 or 45. I don't think it's reasonable and I believe the statute is unconstitutional in view of developments in the field of law in the last six or eight years."

Edward J. Kirby, director of the state Department of Alcoholic Beverage Control, claims the minimum age will remain 21 until Californians change their constitution because the federal Constitution gives states exclusive authority over the sale of alcoholic beverages.

Environment groups keep hands off new Brown-led council

The Sierra Club and the Planning and Conservation League, California's two most outspoken environmentalist organizations, were put into a dilemma by the formation of the California Council for Environmental and Economic Balance, a labor-business coalition headed by former Governor Edmund G. Brown.

John Zierold, Sierra Club lobbyist in Sacramento, said that if conservationists join the council they will be vastly outnumbered and if they refuse to participate they can be accused of staying away because they know that the outcome will be a showing that environmental protection is seldom worth the cost in terms of job loss and other considerations. Zierold called for "immediate dissolution" of the council, with the funds being turned over to a neutral foundation that could study the conflicting needs of the environment and the economy.

William H. Press, executive secretary of the Planning and Conservation League, said the council had hoped to establish a group with 60 members, 20 from labor, 20 from business and 20 from the public. "If you add that up, that means there are going to be 40 against 20, no matter what," he said. Some of the new organization's backers have been identified as the State Building and Construction Trades Council, Pacific Gas and Electric Company, the Fluor Corp., Gulf Energy and Environmental Systems, Southern California Edison Company, Atlantic Richfield Company, the Irvine Company, and the International Association of Machinists.

Chairman Brown expressed disappointment with the reaction of Zierold and Press. "I think it (the environmentalist movement) is costing people money in the form of additional taxes, additional costs for buildings, rents. I am not concerned with big business or labor because they can take care of themselves. I am concerned with the average human being." The former Governor said he was hoping to bring about an end to the adversary relationship between the conservationists on one hand and business and labor on the other.

Welfare work plan uncovered as 'dirty trick'

The Associated Press filed a lengthy story August 15th reporting that the Reagan Administration had drafted a welfare labor plan that would force up to 250,000 mothers to accept state-subsidized jobs or lose custody of their children. The source was identified as "a confidential state report" and the information supposedly was confirmed by a top official in the State Department of Human Resources Development.

The next day, Dr. Earl Brian, state health and welfare secretary, charged that the AP had been fed a doctored document in an apparent malicious attempt to discredit the Reagan Administration. "It is absolutely absurd," said Brian. "I would no more approve such a program than I would fly to the moon. There are some circumstances in which a child should be removed, but it has nothing to do with whether the parents will work."

How was the AP victimized by the "dirty trick"? Peter Rank, human resources development deputy director, said he was discussing the legitimate proposal (which had been rejected by Brian) with reporter Doug Willis and was unaware that the wire service had

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a falsified document. Brian said a false cover sheet had been added to the report, that phrases had been deleted, that a footnote and the word "confidential" were added, totally distorting the document.

Can GOP keep winning Assembly special elections?

Democrats were looking to William W. Lockyer of San Leandro to break a Republican winning streak of five special election victories at a September 4th runoff for the seat vacated through the death of Assemblyman Robert W. Crown, a Democrat from Alameda.

Lockyer, 32, long-time administrative assistant to Crown, topped a field of seven candidates at the August 7th primary in a heavily Democratic district encompassing San Leandro, Alameda and parts of Oakland and San Leandro. He received 12,798 votes, compared to 7,717 for his closest Democratic challenger, Mayor Jack D. Maltester of San Leandro. The only Republican in the race, Councilman William McCall of Alameda, 59, received 6,330 votes and the right to compete with Lockyer and Robert Evans of the Peace and Freedom party in the runoff.

Governor Ronald Reagan attended a fund-raising affair for McCall in an effort to keep the GOP winning streak alive. Thus far this year, Republicans have won all five assembly special elections, including two seats formerly held by Democrats. Crown was killed in May while jogging in Alameda.

1973 Special Election Box Score

District	Seat of	Primary Date	Results
22nd S.D.	Carrell (D) Died	Jan. 30th	Alan Robbins (D) won in runoff, Feb. 27th.
38th S.D.	Burgener (R) Elected to Congress	March 6th	Assem. John Stull (R) won in primary
38th A.D.	Porter (D) Died	May 1st	Robert McLennan (R) won in runoff May 29th
67th A.D.	Townsend (D) Died	May 29th	Paul Bannai (R) won in runoff
80th A.D.	Stul (R) Elected to Senate	May 29th	William Craven (R) won in runoff
12th A.D.	Monagan (R) Washington appointment	June 12th	Doug Carter (R) won in runoff
14th A.D.	Crown (D) Died	Aug. 7th	Runoff Sept. 4th
Statewide Tax Initiative		Nov. 6th	

Senate membership: 20 Republican, 20 Democratic
Assembly membership: 48 Democratic, 31 Republican

State Bar staff monitors evidence in Watergate case

State Bar president Leonard S. Janofsky disclosed that the conduct of President Nixon and five other lawyers mentioned in the Watergate case has been a subject of inquiry by the bar since May. He identified the five attorneys as John D. Ehrlichman, Herbert W. Kalmbach, Robert C. Mardian, Donald H. Segretti and Gordon C. Strachan.

Janofsky emphasized that no formal disciplinary actions have been initiated against any of the lawyers. He reported the Bar had lifted the usual veil of confidentiality accorded such matters after "thorough soul-searching" by the board of governors. "The State Bar staff will continue to monitor the evidence being developed by the Ervin committee," he said in a formal statement. "It has communicated with the committee and with prosecuting authorities involved in various aspects of the case. It will seek a transcript of the testimony before that committee. It has sought and will continue to seek any and all information from whatever source in the area of its concern."

Greene suggests two-year delay in quake deadline

Assemblyman Leroy F. Greene of Sacramento, a prime supporter of the law forcing all school buildings in the state to meet Field Act earthquake safety standards, proposed August 13th that some districts be given an additional two years to rebuild or replace unsafe classrooms. Under current law, schools that do not meet Field Act standards must be closed by June 30, 1975.

Greene said he was introducing urgency legislation to provide the two-year waiver only for those districts which can convince the state Allocation Board that they are proceeding as rapidly as possible to replace unsafe schools. The legislator, chairman of the Assembly Education Committee, said several districts are letting contracts for new buildings but the classrooms will not be ready for occupancy until after June 30, 1975. He emphasized that any school not meeting the new deadline "has procrastinated beyond reason and is not entitled to further consideration."

1969 divorce law fails to produce flood of dissolutions

California's liberalized divorce law, enacted in 1969, was expected to produce a flood of marriage dissolutions. According to a study by the state Department of Health, more couples have parted since 1970 but the new law was not responsible. Researchers Robert Schoen, Harry Greenblatt and Robert Mielke found that the new law reduced trauma in divorce but did not raise or lower the dissolution rate.

This was their conclusion despite the fact that the number of dissolutions during 1970 and 1971 rose 41,000 to 45,000 more than would have been anticipated under the old law. They explained that the raw statistics are distorted by about 40,000 cases because the waiting period for a divorce was shortened and because about 2,000 fewer Californians have been obtaining divorces in Nevada each year since the new family law act was instituted.

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SENATE

August 6th to 9th

SB 1227 (Dymally) — Prohibits the use of public funds for school athletic programs which discriminate on the basis of sex. Passed 21-10.

SB 425 (Stiern) — Delays one percent increase in sales tax for one year and provides 20 percent rebate on 1973 income taxes. Attempted override of Governor's veto failed, 21-17.

SCA 6 (Grunsky) — Provides that the proceedings of each house of the Legislature and the committees thereof shall be open to the public except as provided by statute or legislative resolution adopted by two-thirds of the Legislature. Adopted, 33-2.

SB 1118 (Stiern) — Requires State University and Colleges to adopt procedures for direct student input into personnel decisions of academic employees. Failed 19-16.

August 10th to 16th

SB 601 (Lagomarsino) — Creates new Department of Employment Development to supersede Department of Human Resources Development. Passed 21-8.

SB 922 (Zenovich) — Prohibits a judge of any court of appeal from hearing any case when a party establishes that the judge is prejudiced. Passed 21-16.

VOTING RECORDS

Listed below are the votes of Senators and Assemblymen on recent major roll calls in the Legislature and a brief summary of the issues under consideration. Votes selected for inclusion are issues of major importance to Californians as a whole or issues on which there was a major division of opinion, or both.

Y—Yes *—Absent or Not
N—No Voting

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriation bills.

Assembly: 41 votes required for passage of bills requiring majority vote. ⅔ = 54 votes.

Senate: 21 votes required for passage of bills requiring majority vote. ⅔ = 27 votes.

SB 1220 (Beilenson) — Creates Office of Noise Control in Department of Health to combat noise pollution. Passed 27-4.

SB 90 (Dills) — Repeals one-cent increase in state sales tax for six months, effective October 1st, and provides for one-time state income tax rebate (see article, page 296).

Senate adopts Assembly-Senate compromise, 31-0.

SB 1264 (Moscone) — Requires school districts to utilize federal and state funds available through Department of Education to provide breakfast and/or lunch for pupils of low-income families. Declares as state policy that no child shall go hungry at school. Passed 22-13.

SB 352 (Deukmejian/Dymally) — Establishes California Fair Campaign Practices Commission to enforce a Fair Campaign Practices Code. Authorizes commission to investigate and publicize unfair campaign practices and to penalize violators of code. Passed 27-8.

August 17th to 23rd

SB 1152 (Lagomarsino) — Creates new Public Safety Agency in state government. Passed 21-11.

SB 46 (Carpenter) — Repeals "exclusionary" rule (see page 310). Failed 14-17.

SB 1168 (Marks) — Adds a student body president to the Board of Trustees of the California State University and Colleges. Passed 21-9.

SB 688 (Petris) — Extends homeowner property tax exemption to recipients of public assistance effective 1974-75 tax year. Passed 27-8.

SB 391 (Biddle) — Establishes new Department of Correctional Ser-

SENATE Democrats 20	SB 1227	SB 425	SCA 6	SB 1118	SB 601	SB 922	SB 1220	SB 90	SB 1264	SB 352	SB 1152	SB 46	SB 1168	SB 688	SB 391
Alquist	Y	Y	N	Y	N	Y	Y	*	Y	Y	N	N	Y	Y	N
Beilenson	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	N	N	Y	Y	N
Collier	Y	Y	Y	N	N	Y	Y	Y	Y	N	N	N	*	Y	*
Dills	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	*	*	Y	Y	N
Dymally	Y	Y	Y	Y	Y	Y	Y	*	Y	Y	*	*	*	*	Y
Gregorio	Y	Y	Y	Y	N	N	Y	Y	Y	Y	N	N	Y	Y	Y
Holmdahl	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N
Kennick	*	Y	Y	N	*	Y	Y	Y	Y	Y	Y	N	Y	Y	*
Mills	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	N	*	Y	Y
Moscone	Y	Y	*	Y	*	Y	Y	Y	Y	Y	N	N	Y	Y	N
Petris	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N	N	Y	Y	*
Robbins	*	Y	Y	Y	*	Y	Y	Y	Y	Y	*	*	*	Y	*
Roberti	Y	Y	*	Y	Y	Y	Y	Y	Y	N	N	N	Y	Y	N
Rodda	Y	*	Y	Y	Y	N	Y	*	Y	Y	Y	N	Y	Y	N
Short	Y	Y	*	Y	*	Y	Y	*	*	Y	N	N	*	Y	Y
Song	Y	Y	Y	*	Y	Y	Y	*	*	*	*	*	Y	Y	N
Stiern	Y	Y	Y	Y	*	Y	Y	Y	Y	*	N	N	Y	Y	N
Walsh	*	Y	Y	N	*	Y	*	*	Y	N	*	*	*	Y	N
Wedworth	Y	N	Y	Y	Y	*	*	*	*	N	N	Y	Y	Y	N
Zenovich	Y	Y	Y	Y	Y	Y	Y	*	Y	N	Y	*	Y	Y	N

Republicans 20	SB 1227	SB 425	SCA 6	SB 1118	SB 601	SB 922	SB 1220	SB 90	SB 1264	SB 352	SB 1152	SB 46	SB 1168	SB 688	SB 391
Behr	Y	Y	Y	Y	N	N	Y	Y	Y	Y	N	N	Y	Y	N
Berryhill	N	N	Y	*	N	N	*	Y	N	*	Y	Y	N	N	N
Biddle	N	N	Y	N	Y	N	Y	Y	N	Y	Y	Y	N	N	Y
Bradley	N	N	Y	N	Y	N	N	Y	N	N	Y	Y	N	*	N
Carpenter	N	N	Y	*	*	N	N	Y	N	Y	Y	Y	N	N	*
Coombs	N	N	*	N	Y	Y	*	Y	N	Y	Y	Y	N	N	Y
Cusanovich	*	N	Y	N	Y	Y	Y	Y	Y	*	Y	N	Y	Y	Y
Deukmejian	Y	N	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	*
Grunsky	Y	N	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Harmer	N	N	N	N	Y	*	N	*	*	*	*	*	*	*	*
Lagomarsino	N	N	Y	*	Y	N	*	Y	N	Y	Y	Y	Y	Y	Y
Marks	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Marler	N	N	Y	N	Y	N	*	Y	N	N	Y	Y	Y	N	Y
Nejedly	*	Y	*	N	Y	N	Y	Y	Y	Y	Y	N	*	Y	Y
Richardson	N	N	Y	*	*	*	N	Y	N	Y	Y	Y	*	*	N
Schrade	*	N	Y	N	N	N	Y	Y	*	Y	Y	Y	*	Y	Y
Stevens	*	*	Y	Y	*	N	*	Y	N	Y	*	*	Y	Y	Y
Stull	N	N	Y	N	Y	N	*	Y	N	N	Y	Y	N	N	N
Way	*	N	Y	N	Y	N	Y	Y	N	Y	*	*	N	N	Y
Whetmore	Y	N	Y	N	*	N	Y	Y	N	Y	Y	Y	N	N	Y

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vices to replace existing Department of Corrections, the Youth Authority, and Board of Corrections. Creates new Parole Authority to replace present Adult Authority, the Women's Board of Terms and Paroles, and the Youth Authority Board. Replaces present probation subsidy program with system of correctional grants. Failed 16-17.

ASSEMBLY

August 6th to 9th

AB 938 (Warren) — Requires the preparation of an economic impact report on a proposed local project whenever the preparation of an environmental impact report is required. Passed 56-14.

AB 1575 (Warren) — Establishes state commission to assess energy demands and supplies, provide for the conservation of energy, and limit use of energy under emergency conditions. Passed 41-32.

ASSEMBLY

Republicans	AB 938 AB 1575 AB 57 AB 1244 AB 322 AB 736	AB 1510 SB 90 AB 1254 AB 353 SB 472 AB 1402
Antonovich	NNNNYN	NYNNNN
Arnett	*NYYYN	YYYYYN
Badham	NNNNNN	NY*Y*N
Bagley	YNYY**	YNYY*Y
Bannai	YNYYYY	NYYYYY
Beverly	YNNYY*	YYYNYY
Bond	YNYYYN	NYNNNN
Briggs	NNNNNN	******
Burke	NNNNNN	NYNNNN
Carter	NNYYNN	YYNN*N
Chappie	NNY***	NYN*YN
Cline	YYNN*N	YYYNNY
Collier	NNNNNN	NYNNNN
Craven	YNYYYY	NYYYYY
Duffy	YNYYYY	YNN*YY
Hayden	Y*YYYY	YYY*YY
Johnson, R.	NNYYY*	NYNNYN
Lancaster	NNYYYN	NYNNYN
Lanterman	NNNNYN	YYNN*N
Lewis	YN*YN*	*YNYYY
MacGillivray	Y*NY*Y	YYNNYN
Maddy	YNYYYY	*YY*YY
McLennan	NNNNNN	NYNNNN
Mobley	NNYYY*	*YNNNN
Murphy	YNYYYY	YNY*YY
Nimmo	YNYNNN	NYNN*N
Priolo	NYYYY*	YYYNNY
Russell	N*NNNN	NYNNYN
Seeley	YNNYYY	YY*N**
Wakefield	*NNNNN	NYNNNN
Wood	YNYYYY	NYYNNY

August 10th to 16th

AB 57 (Gonsalves) — Eliminates relatives' responsibility under old age security program. Provides that relatives shall not be held legally liable to support their parents. Assembly overrides Governor's veto, 64-13.

AB 1244 (Moretti) — Appropriates $31,781,083 for child development and child care programs, replacing funds lost through federal cuts. Passed 66-11.

AB 322 (Moretti) — Appropriates $110 million for the continuation of federal employment programs, including $81 million for public employment program and $29 million for the summer youth opportunity program. Passed 64-10.

AB 736 (Ralph) — Treats employee tips in excess of $20 as wages for purposes of determining contributions to unemployment insurance fund. Passed 52-16.

AB 1510 (MacGillivray) — Appropriates $250,000 to establish program for the preparation of teachers in metric measurement education. Failed 25-34.

SB 90 (Dills) — (see description under Senate votes). Assembly adopts Senate-Assembly compromise, 74-3.

AB 1254 (Berman) — Creates the Ventura-Los Angeles Mountain and Coastal Conservation and Development Commission. Passed 57-17.

AB 353 (Miller) — Denies property, inheritance, and gift tax exemptions to non-profit organizations which discriminate on the basis of race, color, or national ancestry. Passed 41-24.

August 17th to 22nd

SB 472 (Alquist) — Revises procedure for filling vacancies on school boards. Within 30 days of vacancy, school boards could make provisional appointment or call special election. Passed 52-13.

AB 1402 (Meade) — Appropriates $1,163,000 to the University of California for salary increases and staff benefits for student teaching assistants and student research assistants during 1973-74 fiscal year. Passed 56-17.

ASSEMBLY

Democrats	AB 938 AB 1575 AB 57 AB 1244 AB 322 AB 736	AB 1510 SB 90 AB 1254 AB 353 SB 472 AB 1402
Alatorre	YYYYY*	YYYYYY
Bee	YNYYYY	YYYNYY
Berman	YYYYYY	YYYYYY
Boatwright	YYYYYY	NYYYYY
Brown	*YYYYY	*YYYYY
Burton	YYYYYY	NYYYYY
Chacon	YYYYYY	YYYYYY
Cory	YYYYYY	NYYYYY
Cullen	YNYYYY	YYYYNY
Davis	YNYYY*	NYY***
Deddeh	YYYYYY	YYYYYY
Dixon	YYYYYY	NYYYYY
Dunlap	YYYYYY	NYYYYY
Fenton	YYYYYY	NYYNYY
Fong	*YYYYY	YYYYYY
Foran	Y*YYYY	NYYYYY
Garcia	YYYYYY	*YYYYY
Gonsalves	YYYYYY	NYYNYY
Gonzales	YYYYY*	NYYYYY
Greene, B.	YYYYYY	*YYY*Y
Greene, L.	YYYYYY	*YYYYY
Holoman	*Y****	*YYYYY
Ingalls	YYYYYY	YYY*NY
Johnson, H.	Y*YYYN	NYY*YY
Kapiloff	YYYYYY	NYYYYY
Karabian	*YYYYY	*YYY**
Keene	YYYYYY	*YY*YY
Keysor	YYYYYY	YYYYYY
Knox	*YYYYY	NY*YYY
MacDonald	YYYYYY	*YY*YY
McAlister	YNYYYY	YYYYYY
McCarthy	YYYYYY	YYYYYY
Meade	YYYYYY	*YYYYY
Miller	YYYYYY	YYYY*Y
Montoya	**YYYY	NYYY*Y
Moretti	YYYYYY	*YY*YY
Papan	YNYYYY	*YYYYY
Powers	YNYYYY	NYYNYY
Quimby	YYYYYY	*YYY**
Ralph	*YYYYY	*YYYYY
Sieroty	YYYYYY	*YYYYY
Thomas	YYYYYY	NYYNYY
Thurman	YYYYYY	NYYYYY
Vasconcellos	YYYYYY	NYYYYY
Warren	YYYYYY	NYYY**
Waxman	YYYYYY	****YY
Wilson	YYYYYY	YYYYYY
Z'berg	YYYYYY	*YY*NY

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Selected State Government Reports

EDUCATION

Report of the Joint Committee on the Master Plan for Higher Education; released by the California Legislature. Feb. 1973. 118 p. Available from the Joint Committee, Assembly P.O. Box 83, State Capitol, Sacramento 95814. (Free)

Ratios of California Public School Nonteaching Employees to Classroom Teachers, as of Nov. 1, 1970, 1971, and 1972; by Bureau of Administrative Research and District Organization, Division of Administrative Services, State Department of Education, 721 Capitol Mall, Sacramento 95814. 28 p.

Ekistics: A Guide for the Development of an Interdisciplinary Environmental Education Curriculum; by California Department of Education, 721 Capitol Mall, Sacramento 95814. 1973. 69 p.

FINANCE

Regulating the Mortgage Loan Broker in California: A Critical Breakdown in Enforcement; by the Real Estate Research and Action Project, sponsored by California State Senator Mervyn M. Dymally. May 1973. A critical examination of practices of home loan brokers in California and their regulations by the State Department of Real Estate. 68 p. Available through the senator's office, Room 2082, State Capitol, Sacramento 95814. (Free)

Selected County Budget Statistics 1968-1973; prepared by California Taxpayers' Association, 900 11th and L Bldg., Sacramento 95814. (Replaces **California Counties Departmental Budgets** of former years.) A compilation of selected appropriations and revenues during the period. 19 p. ($5.00)

MISCELLANEOUS

Cable Television: Its Urban Context and Programming; by Forest Warthman, released by the institute of Urban and Regional Development, University of California, Berkeley. May 1973. 54 p.

California Labor Market Bulletin: Statistical Supplement; prepared by the Employment Data and Research Division, Department of Human Resources Development, California Health and Welfare Agency. March 1973. Statistical report on employment in California. 51 p. Available from the department, P.O. Box 1679, Sacramento 95808.

Controlling Crime in California; Report of the Governor's Select Committee on Law Enforcement Probelms; submitted to the California Legislature by Governor Ronald Reagan, August 1973. Covers findings and recommendations for coping with crime in California. Available from the Governor's office, State Capitol, Sacramento 95814. 164 p.

Legislative Advocates and Organizations: 1973-74 Directory; published by the Joint Committee on Rules, California State Legislature. A roster of currently registered legislative advocates. Obtainable at room 790, 925 L St., Sacramento 95814. 123 p. ($2.50)

CMA Socio-economic Report; by California Medical Association, 693 Sutter St., San Francisco 94102. Compares increased physicians' fees last year with those of hospital and general medical care during 1962-72.

Transcript of Public Hearings on the Status of Women in 1973; released by the Commission on the Status of Women. Hearings were held November 29, 1972, in Sacramento (296 p.), December 8-9, 1972, in San Francisco (343 p.), and February 9-10, 1973, in Los Angeles (494 p.). Available free from the commission, 1025 P St., Rm. 340, Sacramento 95814.

National Roster, California Section, Spanish-Surnamed Elected Officials; compiled by Frank C. Lemus, June 1973, under Urban Affairs Institute Program. Available free from the State Senate Democratic Caucus, Rm. 106, State Capitol, Sacramento 95814. 35 p.

CANNON *(Continued from page 319)*

House officials acknowledge it.

Warren minimizes the Ziegler shoving incident but accepts questions about the President's emotional state he would have ruled off-limits a week earlier. At one point he says that "there is no question that during the past few months there have been periods of pressure on the President." The same day presidential counselor Melvin Laird tells four reporters that he wishes Nixon had spent more time in the hospital after his pneumonia attack. There are other, more private, signs. One comes from Ziegler, who has a reputation for chewing out his subordinates in the private press office staff meetings after something goes wrong. Today, Ziegler is subdued and shaken. "It's been a hard day," he says, as if he cannot quite comprehend what has happened to him. Some of his aides wonder if even Ziegler is beginning to lose faith in his President.

SAN CLEMENTE, AUG. 22 — The press conference that everyone was waiting for has come and gone, and the republic still stands. As with most developments in the Nixon administration, there was something for everybody. For the press corps it was the accomplishment, after all the years of doing otherwise, of having stuck to the subject at hand and asked some good questions about it.

Going in, the reporters were nearly as tense as Nixon. They eased the tension while waiting for the President in the sunny Western White House parking lot by making up mock questions of which the favorite was, "Mr. President, how do you plead?"

But it is Nixon who gains the most from this press-conference, quavering voice and all. During a week when even his own subordinates were wondering aloud about his emotional state, the President once more demonstrated the essential toughness he has always shown when his back is to the wall. The news conference sheds little new light on Watergate, but it elates the Western White House because the President survives. "He didn't blow up," says one aide. "He showed them."

Of such stuff is victory made these days at the White Houses across America.

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LETTER FROM WASHINGTON
By Lou Cannon

A tale of four cities

WASHINGTON, AUG. 15 — The mob scene at the White House briefings on the day of a major presidential speech resembles the high-toned, unknowledgable crowd that turns up at a baseball World Series. Like the regular fans at a series, the regular White House correspondents are easily outnumbered on speech days by droves of reporters as uncertain about what is occurring on the playing field as they are determined to be present at the big event.

The crowd today, however, is in luck. They are to be treated to that rarity of rarities, an unscheduled actual view of the President of the United States. The announcement of El Jefe's descent from Camp David is made over the briefing room loudspeakers, and the reporters are herded out onto the lawn to watch. Alas, the announcement is belated. The President already has landed and sequestered himself inside the White House, and the reporters must content themselves with watching King Timahoe, the President's amiable Irish setter, debark from the helicopter. It is that kind of day.

Back in the briefing room the crowd settles down for the reading of a Cambodian statement from Deputy Press Secretary Gerald L. Warren, who has at least temporarily become the administration's most operative press spokesman. It is a long, tough statement which, boiled down, declares that it is the fault of Congress if the Cambodian government fails and the credit of the Nixon administration if it survives. The statement is timed to give the afternoon papers and the evening television something to report while waiting for the Watergate speech, and it does its job. But the statement does not relieve the tension inside the White House, where the word is out that the President is working on his final draft in the solitude of his hideaway office in the Executive Office Building. In the meantime, aides say privately that the Nixons are "up tight" about the speech.

WASHINGTON, AUG. 16 — The World Series crowd is gone now, and the regulars are in full command. Warren enters the briefing room to a mock question: "When is the President going to make his Watergate speech?"

Warren answers the question with a smile, but he is not smiling later in the briefing when another, nastier regular asks if the President is willing to submit to a lie detector test. "I resent the implication of your question," he replies.

It is altogether a bad morning for Warren, the likeable pipe-smoking No. 2 man who has come center-stage during Press Secretary Ronald L. Ziegler's retreat into the relative seclusion of an assistant presidency. At one point the banter and interruptions from reporters become so confusing that Warren attempts to walk away from the podium and end the briefing. Then the regulars quiet down, and Warren is mollified by a merited compliment from the White House Correspondents Association for the efficiency of the press staff the night before. The attempted walkout is a bad sign, however — and there are more to follow.

KEY BISCAYNE, Fla., AUG. 19 — The President has shut himself up in his compound, and there are no press briefings at all. Even Warren is not around. Warren had another bad day on Friday, when President Nixon abruptly decided to spend the weekend in the company of Bebe Rebozo here rather than with the family at Camp David.

In announcing the President's appearance before the Veterans of Foreign Wars convention in New Orleans, Warren described the Rivergate Convention Center as "the Watergate convention center." Then he held his head in his hands and asked: "Did I do that?" Today, in Maimi, the Herald carries a piece by White House regular Bob Boyd, who had won the Pulitzer for the story about Senator Eagleton's disability. It recalls Warren's slip of the tongue and compares Watergate to the "damned spot" which Lady Macbeth is unable to wash away. An aide who has seen the President says that Nixon is even more upset about the lead story in the Herald, a poll of Miami voters which finds that 63 percent believe Nixon knew of the Watergate cover-up. All this is second-hand. There is nothing first-hand except the noon posting by one of Warren's substitutes which informs the traveling press that Nixon will spend the afternoon with his family. The posting is inaccurate. The evening posting reveals that Nixon has instead spent the afternoon with Bebe Rebozo aboard the Coco Lobo III.

NEW ORLEANS, AUG. 20 — The four pool reporters learn on the flight from Miami of the assassination conspiracy against the President. They take it seriously. The knowledge of What Happened in Dallas is always with the White House press corps, and bomb scares were frequent (though infrequently reported) during the 1972 political campaigns. But no one can figure out why the White House is announcing the diversion of the motorcade in advance.

The President is tight-lipped and tense when we see him outside the convention center. He cannot have been cheered by the "Impeach Nixon" signs scattered among the sparse but otherwise friendly crowds along the way. But the pro-Nixon signs have become more imaginative now that they are no longer mass-produced by the Committee for the Re-Election of the President. One says, "Damn Watergate, Mr. President, you navigate our ship of state." Another says, "Hang in there, Nixon."

It turns out at the convention center that it is poor Ziegler who needs exhortations to "hang in there." In another of those historic first so beloved by this administration, Ziegler becomes the first press secretary to be shoved by the President of the United States into a group of reporters at point-blank camera range.

SAN CLEMENTE, AUG. 21 — The strain is showing on the President now, and for the first time White

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I have come to the conclusion that politics are too serious a matter to be left to the politicians.

-- Charles de Gaulle

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